

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES**

**PUBLIC**

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

Vanessa Ruth Waldref

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

United States Attorney, Eastern District of Washington, U.S. Department of Justice

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:

U.S. Department of Justice  
Environment & Natural Resources Division  
4 Constitution Square  
150 M Street, NE  
Washington, DC 20002

Residence: Spokane, WA

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

1980; Spokane, WA

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.

Georgetown University Law Center, 2005 – 2008  
Juris Doctor – May 2008

Georgetown University, 1998 – 2002  
Bachelor of Arts – May 2002

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.

May 2020 – Present  
Trial Attorney  
United States Department of Justice  
Environmental & Natural Resource Division  
Environmental Defense Section  
4 Constitution Square  
150 M Street NE  
Washington, DC 20002  
Paid

January 2015 – Present  
Adjunct Professor  
Gonzaga University School of Law  
721 N. Cincinnati Street  
Spokane, WA 99220  
Paid

November 2012 – October 2020  
Board Member  
Washington Women Lawyers  
Spokane Chapter  
Unpaid

June 2013 – May 2020  
Assistant United States Attorney  
United States Attorney's Office  
Eastern District of Washington  
920 W Riverside Avenue Suite 340  
Spokane, WA 99201  
Paid

June 2012 – June 2013  
Associate Attorney  
Lee & Hayes PLLC  
601 W Riverside Avenue, Suite 1400  
Spokane, WA 99201  
Paid

October 2011 – June 2012  
Associate Attorney  
Lukins & Annis, PS  
717 W Sprague Avenue, Suite 1600  
Spokane, WA 99201  
Paid

September 2010 – September 2011  
Federal Clerkship  
The Honorable John D. Bates  
U.S. District Court for the District of Columbia  
333 Constitution Avenue NW  
Washington, DC 20001  
Paid

October 2008 – September 2010  
Associate Attorney  
Morrison & Foerster, LLP  
2100 L Street NW, Suite 900  
Washington, DC 20037  
Paid

August 2007 – September 2008  
Research Assistant/Writing Fellow  
Georgetown University Law Center  
600 New Jersey Avenue NW  
Washington, DC 20001  
Paid

January 2008 – June 2008  
Law Clerk  
Bredhoff & Kaiser, PLLC  
805 Fifteenth Street NW, Suite 1000  
Washington, DC 20005  
Paid

May 2007 – August 2007  
Summer Associate  
Morrison & Foerster, LLP  
2100 L Street NW, Suite 900  
Washington, DC 20037  
Paid

January 2007 – May 2007  
Labor Scholar Coordinator Internship  
American Federation of Labor – Congress of Industrial Organizations (AFL-CIO)  
815 Sixteenth Street NW  
Washington, DC 20006  
Paid

May 2006 – November 2006  
Law Clerk & Peggy Browning Fellow

American Federation of State, County & Municipal Employees (AFSCME)  
Office of the General Counsel  
1625 L Street, NW  
Washington, DC 20036  
Paid

August 2003 – August 2005  
Project Assistant  
Catholic Legal Immigration Network, INC (CLINIC)  
8757 Georgia Avenue, Suite 850  
Silver Spring, MD 20910  
Paid

August 2002 – August 2003  
Community Organizer & Advocate  
Welfare Rights Organizing Coalition  
1820 E Pine  
Seattle, WA 99122  
Paid

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

I have not served in the U.S. military. I was not required to register for the selective service.

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

Myra Bradwell Award, Gonzaga University Women's Law Caucus, 2021

Gonzaga University Public Interest Law Project Hero of the Year, 2018

Recognition of Distinguished Achievement, Small Business Administration Office of Inspector General, 2017

Bronze Medal, Environmental Protection Agency Office of General Counsel, 2014

Outstanding Achievement Award, Washington Lawyers' Committee for Civil Rights, 2010

Order of the Coif, Georgetown University Law Center, 2008

Senior Writing Fellow, 2007 – 2008

Writing Program Director, Georgetown Journal on Poverty Law & Policy, 2007 – 2008

Legal Research and Writing Fellow, 2006 – 2007

Peggy Browning Fund Labor Law Summer Fellowship, 2006

Home Court Fellow, Georgetown University Law Center & Washington Legal Clinic for the Homeless, 2006

Phi Beta Kappa, 2002

Alpha Sigma Nu, 2002

Alpha Kappa Delta Sociology Honor Society, 2002

Lena Landegger Community Service Award, Georgetown University, 2002

Coakley Medal, Georgetown University, 2002

Hoggson Award for Excellence in Sociology, Georgetown University, 2002

John Carroll Scholar, Georgetown University, 1998 – 2002

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.

Washington Women Lawyers

State Board Member, Newspaper Editor (November 2012 – October 2014)

Spokane County Chapter Board Member (Membership Coordinator, Liaison to State Board, At-Large, November 2012 – October 2020)

Washington State Bar Association (Member, 2011 – Present)

Young Lawyer Division Mentor (2018 – Present)

Employment Law Section Young Lawyer Representative (2012 – 2013)

American Intellectual Property Law Association (“AIPLA”)

Trade Secret Subcommittee (2012 – 2013)

Spokane County Bar Association

American Bar Association

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.

Washington, December 2011. No lapses in membership.

District of Columbia, September 2009. No lapses in membership.

Virginia, October 2008 – July 2011

Associate (inactive) Member, July 2011 – October 2015, August 2017 – Present

Reason for lapse: Administrative suspension for non-payment of dues, resolved and reinstated August 2017.

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

United States Court of Appeals for the Ninth Circuit (December 2013)

United States District Court for the Eastern District of Washington (June 2012)

United States District Court for the District of New Mexico (March 2021)

As a Department of Justice trial attorney representing the United States, I have also received permission to practice in the below-listed United States courts. I was not required to be admitted before these courts.

United States District Court for the District of Columbia

United States District Court for the Northern District of California

United States District Court for the District of New Jersey

United States District Court for the Eastern District of Pennsylvania

United States District Court for the Southern District of Texas

United States District Court for the District of South Carolina

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.

Washington Women Lawyers (2012 – Present)

Jesuit Volunteer Corps Northwest, Support Coordinator for Spokane Jesuit Volunteer Community (August 2012 – July 2020)

I have made financial contributions over the years to the schools I have attended. In addition, I have made financial contributions to charitable organizations over the years. Such organizations may list me as a member by virtue of my financial contribution. I have not listed above any organization to which I gave funds and did not otherwise participate in programmatic activities.

- b. 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.

Washington Women Lawyers sponsors events and legal education programming targeted to support the full integration of women in the legal profession and advocates against discrimination on the basis of sex, race, religion or national origin. To my knowledge, none of the above organizations discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

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

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

I have done my best to identify all books, articles, letters to the editor, editorial pieces and other published material, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

WASHINGTON'S CIVIL PROCEDURE DESKBOOK, *Chapter 55, Default and Judgment* (WSBA 3d Ed. 2014). Copy not available.

*The Alien Tort Statute After Sosa: A Viable Tool in the Campaign to End Child Labor?* 31 BERKELEY J. EMPL. & LAB. L.160 (2010). Copy supplied.

*Sweeping New Whistleblower Law May Cover All Employers Who Receive Stimulus Funds*, JD SUPRA LLC (Feb. 2009) (with Daniel P. Westman). Copy supplied.

*Nevada Requires Encryption of Personal Information in Transit and in Storage on*

*Portable Devices*, 14 No. 8 CYBERSPACE LAW 28 (Sept. 2009) (with Nathan D. Taylor & Charles H. Kennedy). Copy supplied.

*EEOC Lists Employer Best Practices for Supporting Caregiver Employees*, Morrison & Foerster Employment Law Commentary (May 2009); Republished at ABA Business Law Section Newsletter: Corporate Counsel Committee (July 2009). Copy supplied.

*Reagan's National Labor Relations Board: An Incomplete Revolution*, 15 GEO. J. POVERTY L. & POL'Y 285 (2008). Copy supplied.

*The Student's Role in Community-Based Research*, 9 MICHIGAN J. OF COMMUN. SERVICE LEARNING 36 (Spring 2003) (with Jason Willis, Jennifer Peresie & Deirdra Stockmann). Copy supplied.

*What do Georgetown and Kathie Lee Gifford Have in Common?* THE HOYA, October 5, 1999 (with Laura McSpedon). 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.

I have done my best to identify any reports, memoranda, or policy statements I have prepared or contributed to, including through a review of my personal files and searches of publicly available electronic databases. I have not located any.

- 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 done my best to identify any testimony, official statements, or other communications related, in whole or in part, to matters of public policy or legal interpretation, including through a review of my personal files and searches of publicly available electronic databases. I have not located any.

- 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 done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of my personal files and searches of publicly available electronic databases. I frequently speak without notes or speak from a handwritten outline. I did not retain the majority of the handwritten outlines and have attached all that I could find. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

Gonzaga University Law School  
721 N. Cincinnati Street, Spokane, WA  
June 4, 2021

I was a featured presenter in the Leadership for Lawyers course and spoke about my leadership style, effective time management and communication strategies, and my experience developing leadership skills in my legal practice. I do not have a copy of the speech and spoke without notes; there is no transcript, recording or press coverage of which I am aware.

Gonzaga University Law School Myra Bradwell Award  
721 N. Cincinnati Street, Spokane, WA  
March 3, 2021

I spoke to an audience of law students, law professors, and legal practitioners after receiving the Myra Bradwell Award from the Gonzaga University Women's Law Caucus recognizing my dedication to achieving justice for women and children. I spoke regarding the importance of mentorship, challenges I have faced as a female attorney, and embracing opportunities for growth despite significant obstacles. Notes of remarks supplied.

Gonzaga University School of Business Administration  
502 E Boone Avenue, Spokane, WA  
October 17, 2019

I participated in a panel discussion about strategies for ethical business leaders to help close the gender wage gap. I do not have a copy of the speech and spoke without notes; there is no transcript, recording or press coverage of which I am aware.

Eastern Washington University  
Spokane Campus, Spokane WA  
November 2018

I was an invited presenter on risk assessment in rulemaking in Administrative Law and Regulation course for students pursuing Masters in Public Administration. The presentation focused on water quality standards under the Clean Water Act and how risk assessment and cost-benefit analysis are used in the process of environmental rulemaking. Presentation supplied.

Spokane Riverkeeper  
35 W Main, Spokane, WA  
November 2018

Invited presenter in series of lectures designed to increase understanding about toxics in the Spokane River. Discussed water quality standards under the Clean Water Act and how risk assessment and cost-benefit analysis are used in the process of environmental rulemaking. Presentation slides same as above.

Gonzaga University Public Interest Law Project 2018 HERO Award  
721 N. Cincinnati Street, Spokane, WA  
March 2, 2018

I spoke to an audience of law students, law professors, and legal practitioners regarding my path to public service work and encouraging students to incorporate public service in their legal careers. Notes of remarks supplied.

Society of Human Resource Management  
Mirabeau Park Hotel & Conference Center, 1100 Sullivan Road, Spokane Valley, WA  
May 14, 2013

Presenter for SHRM Inland Northwest Chapter's Conference on trade secret protections in the workplace and best practices for employee nondisclosure and confidentiality agreements. I do not have a copy of the speech and spoke without notes; there is no transcript, recording or press coverage of which I am aware.

Trade Secret Law Summit, American Intellectual Property Law Association  
Washington, DC  
October 23, 2012

Presenter as part of Trade Secrets Subcommittee at American Intellectual Property Law Association ("AIPLA") Annual Conference. Provided legal updates on trade secret protections and recent case law developments. I do not have a copy of the speech and spoke without notes; there is no transcript, recording or press coverage of which I am aware.

- 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 done my best to identify all interviews given, including through a review of my personal files, and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

*'Fighter: First Female pick for U.S. Attorney for Eastern Washington reflects on Spokane Roots.* THE SPOKESMAN-REVIEW, January 27, 2021. Copy supplied.  
*Alumni Q & A.* GONZAGA PREPARATORY SCHOOL SUMMER MAGAZINE.

Interviewed in July 2021. Publication forthcoming in August 2021.

13. **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 run for public 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.

I am a member of the Democratic Party but have not held a position or played a formal role in a political campaign.

14. **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 served as a judicial clerk for the Honorable John D. Bates in the United States District Court for the District of Columbia, September 2010-September 2011.

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

I have not 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.

October 2008 – September 2010  
Associate Attorney  
Morrison & Foerster, LLP  
2100 L Street NW, Suite 900  
Washington, DC 20037

October 2011 – June 2012  
Associate Attorney  
Lukins & Annis, PS  
717 W Sprague Ave, Suite 1600  
Spokane, WA 99201

June 2012 – June 2013  
Associate Attorney  
Lee & Hayes PLLC  
601 W Riverside Ave, Suite 1400  
Spokane, WA 99201

June 2013 – May 2020  
Assistant United States Attorney  
United States Attorney's Office  
Eastern District of Washington  
920 W Riverside Ave, Suite 340  
Spokane, WA 99201

November 2012 – October 2020  
Board Member  
Washington Women Lawyers  
Spokane Chapter

January 2015 – Present  
Adjunct Professor  
Gonzaga University School of Law  
721 N. Cincinnati St.  
Spokane, WA 99220

May 2020 – Present  
Trial Attorney  
United States Department of Justice  
Environmental & Natural Resource Division  
Environmental Defense Section  
4 Constitution Square  
150 M Street, NE  
Washington, DC 20002

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

I have not served as a mediator or arbitrator.

b. Describe:

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

In 2008, I started my law career as a general litigation associate at Morrison & Foerster LLP. I worked with the appellate group, labor and employment group, and global privacy and data security group. I practiced in state and federal court in Virginia and Washington, DC.

In 2010-2011, I clerked for The Honorable John D. Bates of the U.S. District Court for the District of Columbia. After clerking in fall 2011, I returned to my hometown of Spokane, WA and private practice. I practiced in state and federal court in Washington and continued to focus on general litigation and labor and employment law. At Lee & Hayes, my commercial litigation practice grew and I arbitrated two cases, including a two-week trial where I presented the opening argument and examined witnesses and experts.

In 2013, I joined the U.S. Attorney's Office. Since then, my practice has been primarily in the federal courts prosecuting cases and defending the United States and its agencies in employment discrimination, tort, and environmental disputes. I also investigated fraud on the United States to recover government money or to impose penalties for violations of federal health, safety, or environmental laws.

After developing an expertise in environmental law, I transitioned within the Department of Justice in 2020 to the Environmental and Natural Resource Division. I currently litigate cases around the country relating to pollution control statutes such as the Clean Water Act and Clean Air Act.

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

In private practice, a typical client would be a technology company or financial institution. Since 2013, my client has been the United States of America and its agencies and employees.

I have expertise in administrative, environmental and labor & employment law.

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

My practice since joining the Department of Justice in 2013 has been as a litigator in federal court representing the United States. I have tried cases in district court

and bankruptcy court. In my civil practice, my court appearances are largely at motion hearings. I have argued over 20 dispositive motions, three appeals before the Ninth Circuit Court of Appeals, and have stand-up court experience in other settings, such as preliminary injunction hearings, discovery disputes, and other non-dispositive motions.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 90% |
| 2. state courts of record:  | 10% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 0%  |

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 90% |
| 2. criminal proceedings: | 10% |

- 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 have been counsel of record in over thirty (30) cases that were resolved on dispositive motions. Of these cases, I was sole counsel or chief counsel for at least 20 cases. Prior to joining the U.S. Attorney's Office, I served as sole counsel for a week-long arbitration and associate counsel at a two-week arbitration before a three-judge panel. At the U.S. Attorney's Office, I was associate counsel in a federal criminal jury trial and sole counsel for the United States in a federal bankruptcy trial.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. Jury:     | 25% |
| 2. non-jury: | 75% |

- 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 Supreme Court of the United States.

15. **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. Savage ex. rel. United States v. Washington Closure Hanford et al.  
Case No. 2:10-cv-5051-SMJ  
United States District Court for the Eastern District of Washington  
The Honorable Edward Shea and The Honorable Salvador Mendoza Jr.  
2013 – 2018

I represented the United States in a False Claims Act case against trio of government contractors at the Department of Energy Hanford Site. The United States alleged that the defendants engaged in a fraudulent scheme to establish a façade of small, disadvantaged businesses that applied for, and were awarded small-business government contracts by the prime contractor while the work under the contracts was knowingly performed by a large business. My work consisted of several rounds of motion practice, written discovery, expert discovery, deposition preparation and individually taking and defending approximately ten depositions.

After the United States obtained favorable rulings from the court denying defendants' motions to dismiss and for partial summary judgment, the case ultimately settled for over \$5 Million, one of the Department of Justice's largest settlements for small business fraud. Following the conclusion of the case, the Small Business Administration's Office of Inspector General honored the United States' trial team with a special recognition award.

Co-Counsel:

Dan Fruchter  
Tyler Tornabene  
United States Attorney's Office  
Eastern District of Washington  
920 W. Riverside Avenue, Suite 340  
Spokane, WA 99201  
(509) 353-2767

Relator's Counsel:

Bruce Paul Babbitt  
Jameson Babbitt Stites & Lombard, Seattle, WA  
801 Second Avenue, Suite 700  
Seattle, WA 98104  
(509) 516-3206

Opposing Counsel:

Marisa Bavand  
Allison L. Murphy  
Groff Murphy PLLC  
300 East Pine Street  
Seattle, WA 98122  
(206) 832-1477

Mark Bartlett  
Brad Fisher  
Davis Wright Tremaine LLP  
920 5<sup>th</sup> Avenue, Suite 3300  
Seattle, WA 98104  
(206) 757-8298

Bradford Axel  
Brendan Monahan  
Stokes Lawrence PS  
1420 5<sup>th</sup> Avenue, Suite 3000  
Seattle, WA 98101  
(206) 892-2102

2. United States of America v. Zacherle

Case No 2:14-CR-00030-SAB-1

United States District Court for the Eastern District of Washington

The Honorable Stanley Allen Bastian

United States Court of Appeals for the Ninth Circuit

Case No. 15-30245

Panel: The Honorable Raymond C. Fisher, The Honorable Richard A. Paez, and The Honorable Consuelo M. Callahan

2015 – 2017

I prosecuted the defendant who was charged with receipt and possession of child pornography. This case was prosecuted as part of the Department of Justice Project Safe Childhood Initiative and the defendant had prior child pornography offenses. The case involved challenging evidentiary issues relating to defendant's possession of his computer and graphic images of child exploitation that the defendant had attempted to wipe from his computer. I prepared witnesses to testify regarding voluminous and highly technical computer evidence and forensic reports. I participated in the pre-trial motions, preparation of exhibits, and examined witnesses at the jury trial. My work also involved handling all aspects of the appeal, including writing the appellate response brief and arguing the appeal before the Ninth Circuit. The appeal raised Fourth and Fifth Amendment arguments and challenged the sentence. My briefing disputed the defendant's asserted privacy interests in the computer that had been seized; argued that the defendant's waiver of Fifth Amendment rights was made



voluntarily, knowingly, and intelligently and was not later revoked by nonverbal responses; and explained that the defendant's sentence was appropriate and properly supported at trial and sentencing.

The jury convicted the defendant of possessing child pornography and he was sentenced to 10 years in prison. The Ninth Circuit affirmed the conviction and sentence.

Co-counsel:

Stephanie Lister  
United States Attorney's Office  
Eastern District of Washington  
920 W. Riverside Avenue, Suite 340  
Spokane, WA 99201  
(509) 353-2767

Opposing Counsel:

Douglas Phelps  
Phelps & Associates  
2903 N Stout Road  
Spokane, WA 99206  
(509) 620-0606

3. Alliance for the Wild Rockies v. Pena

Case No. 2:16-cv-00294-RMP

United States District Court for the Eastern District of Washington

The Honorable Rosanna Malouf Peterson

United States Court of Appeals for the Ninth Circuit

Case No. 16-35856

Panel: The Honorable Dorothy W. Nelson, The Honorable Milan D. Smith Jr. and The Honorable Morgan B. Christen.

2016 – 2018

I defended a forest restoration project on the Colville National Forest that raised claims under the National Forest Management Act and National Environmental Policy Act. The case raised novel issues regarding the extent of a timber company's involvement with environmental planning under a stewardship contract project. This case arose from an innovative collaboration between government agencies, timber companies, and environmental groups that incorporated environmental remediation projects such as culvert replacement for improved fish passage and sediment reduction efforts to improve water quality along with timber management efforts. This was one of the first challenges to the United States Forest Service's initiative to collaborate with stakeholder partners to preserve Forest Service resources, provide greater forest restoration support, and reduce the occurrence of catastrophic wildfires. My work consisted of on-site visits to understand the

forest management strategies, writing the response to a preliminary injunction motion, arguing the motion, and writing and arguing the summary judgment motion.

The plaintiff appealed the U.S. District Court's decision that ruled in favor of the United States Forest Service moving forward with its project. I responded to an emergency appeal and an expedited appeal before the Ninth Circuit. The appeals addressed complex environmental management subjects including the accurate calculation of sediment delivery to streams within the project site through the duration of the project and analysis of the appropriate habitat for protected species under the Forest Plan. I was the primary writer of both appellate response briefs and prepared for argument before the Ninth Circuit with my co-counsel. This case was one of the Ninth Circuit's first opportunities to interpret the requirements for a preliminary injunction after the Supreme Court's ruling in *Winter v. Natural Resources Defense Counsel*. I argued that plaintiff did not meet its burden under either the *Winter* test or the Ninth Circuit's "substantial questions" test for preliminary injunctive relief.

The Ninth Circuit affirmed the district court's denial of the preliminary injunction motion in a published decision that is frequently cited as articulating the Circuit's criteria for issuance of preliminary injunctive relief. 865 F.3d 1211 (9th Cir. 2017). The case proceeded on the merits in the U.S. District Court and the United States Forest Service's summary judgment motion was granted, and the Plaintiff's motion was denied.

Co-counsel:

Rudy Verschoor  
United States Attorney's Office  
Eastern District of Washington  
920 W. Riverside Avenue, Suite 340  
Spokane, WA 99201  
(509) 353-2767

Opposing Counsel:

Brian A. Ertz  
Ertz Law PLLC  
PO Box 665  
Boise, ID 83701  
(208) 918-1663

Richard Arthur Poulin  
Scope Law Firm PLLC  
PO Box 22091  
Seattle, WA 98122  
(206) 420-1590

Thomas John Woodbury

PO Box 7681  
Missoula, MT 59807  
(650) 238-8759

4. Gordon v. United States of America

Case No. 4:15-cv-05073-SAB

United States District Court for the Eastern District of Washington

The Honorable Stanley Allen Bastian

The United States Court of Appeals for the Ninth Circuit

Case No. 16-35867

Panel: The Honorable Ronald M. Gould, The Honorable Paul J. Watford, and The Honorable Barbara Jacobs Rothstein

2015 – 2018

I represented the United States in a Federal Tort Claims Act action against the Office of the Inspector General of the United States Department of Agriculture defending the testimony of a special agent who had investigated fraud, conspiracy, and false applications by potato farmers to the USDA's federal crop insurance program. I worked closely with the special agent and the Office of Inspector General to review the grand jury testimony from a prior criminal proceeding to prepare materials for multiple successful dispositive motions demonstrating that the special agent did not provide incomplete or misleading testimony to the grand jury. I independently drafted the dispositive motion arguing that plaintiffs' claims were barred by the discretionary function exception to the Federal Tort Claims Act and that the United States had not waived sovereign immunity.

The federal district court granted the United States' motion to dismiss for lack of subject matter jurisdiction. The Plaintiffs appealed. I wrote the appellate response brief and argued the case at the Ninth Circuit. The Ninth Circuit panel affirmed.

Opposing Counsel:

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5. Alliance for the Wild Rockies v. U.S. Forest Service and Fish & Wildlife Service

Case No. 2:19-cv-00350-SMJ

United States District Court for the Eastern District of Washington

The Honorable Salvador Mendoza Jr.

2019 - 2021

This case was a challenge to the Mission Restoration Project on the Okanagan-Wenatchee National Forest. The Mission Project aims to restore the Libby and Buttermilk Creek landscapes to be more resilient to wildfire and climate change. The plaintiff challenged the

project under the National Forest Management Act, National Environmental Policy Act and the Endangered Species Act. I defended the Forest Service and the Fish and Wildlife Service's decisions analyzing the impact of the Mission Project on the grizzly bear and their use of best available science on road impacts. I also argued that the Forest Service's evaluation of environmental impacts properly analyzed soil quality standards and concluded that the project would have long-term, beneficial impacts on forest health. My work included writing the summary judgment motion and arguing the motion at the summary judgment motion hearing.

The motion for summary judgment by defendants United States Forest Service and United States Fish & Wildlife Service was granted. Plaintiff's motion for summary judgment was denied.

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6. Zirkle Fruit Company v. United States Department of Labor et al.  
Case No. 1:19-cv-03180-SMJ  
United States District Court for the Eastern District of Washington  
The Honorable Salvador Mendoza Jr.  
2019 - 2020

I defended a challenge to the U.S. Department of Labor's prevailing wage rate for blueberry harvesting in Washington State. The prevailing wage rate is determined through a process established by the Washington State Employment Security Department and approved by the U.S. Department of Labor. Employers who hire foreign workers must offer employees the prevailing wage rate, which is the average wage paid to similarly employed workers in a

specific occupation in the area of intended employment. Several large agricultural associations and farmers sought to vacate prevailing wage rates that would entitle farmworkers to higher wages. My work included writing a response to the preliminary injunction motion, engaging in written and expert discovery, and drafting the summary judgement motion.

The U.S. District Court granted the preliminary injunction motion, but then upheld the U.S. Department of Labor's prevailing wage rates. The published decision is available at 442 F.Supp.3d 1366.

Co-counsel:

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Opposing Counsel:

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Evans Fruit Company, Inc. et al. v. United States Department of Labor et al.  
Case No. 1:19-cv-03202-SMJ  
United States District Court for the Eastern District of Washington  
The Honorable Salvador Mendoza Jr.  
2019 – 2020

In this related case, I defended a challenge to the U.S. Department of Labor's prevailing wage rate for apple pickers in Washington State. Several large agricultural associations and farmers sought to vacate prevailing wage rates that would entitle farmworkers to higher wages. My work included writing a response to the preliminary injunction motion and arguing the motion.

The U.S. District Court denied the preliminary injunction motion and the Plaintiffs later voluntarily dismissed the case.

Co-counsel:

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7. Community Association for Restoration of the Environment v. U.S. Environmental Protection Agency  
Case No. 2:13-cv-3067  
United States District Court for the Eastern District of Washington  
The Honorable Thomas O. Rice  
2013-2014

This was a challenge to the U.S. Environmental Protection Agency's processing of a Freedom of Information Act ("FOIA") request relating to litigation against Yakima Valley dairies to reduce nitrate pollution in the area's groundwater and nearby residential drinking water wells. The case also involved nationwide issues related to the appropriate application of FOIA exemptions for dairies that assert a business confidentially claim. My work on this case involved successfully moving for a protective order for EPA, managing a related lawsuit that challenged EPA's treatment of business confidential information, and independently drafting a motion for summary judgment defending the agency's timely and complete release of records under FOIA.

The U.S. District Court granted EPA's motion for summary judgment on the FOIA claims and denied Plaintiffs' motion and request for attorney fees. Due to the complex nature of the subject material and multiple FOIA issues and cases involved, I received an award from the EPA Office of General Counsel for my handling of this difficult FOIA litigation.

Opposing Counsel:

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8. Kachess Community Association et al. v. U.S. Department of the Interior et al.  
Case No. 1:19-cv-03155  
United States District Court for the Eastern District of Washington  
The Honorable Rosanna Malouf Peterson  
2019-2020

This case was a challenge under the National Environmental Policy Act to the Yakima River Basin Integrated Water Resource Management Plan. I represented the Department of the Interior defending the Integrated Plan, which represents the decade-long efforts of multiple stakeholders to develop a comprehensive and long-term plan to restore aquatic functions and provide sustained reliability of water supply for the Yakima River Basin area. Stakeholders from federal to local agencies, the Confederated Tribes and Bands of the Yakama Nation, irrigation districts, and conservation groups contributed to the development of this Plan and gave feedback through the environmental review process. This is a complex, multi-phase project that addresses reservoir fish passage, structural and operational changes to existing facilities, surface water storage, groundwater storage, habitat watershed protection and enhancement, and market reallocation. Plaintiffs' complaint challenged several of the environmental analyses prepared by the U.S. Bureau of Reclamation. My work on this case included facilitating the preparation of an immense administrative record and independently writing the motion to dismiss the case for lack of subject matter jurisdiction.

The U.S. District Court granted the Department of Interior's motion to dismiss, ruling that plaintiffs lacked subject matter jurisdiction over their claims.

Counsel for Co-Defendant Washington State:

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Counsel for Intervenor Defendant:

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9. Olivera et al. v. United States

Case No. 1:17-cv-3050

United States District Court for the Eastern District of Washington  
The Honorable Salvador Mendoza Jr.  
2017 – 2019

This was a complex medical malpractice lawsuit that involved extensive medical and economic expert discovery. The plaintiff experienced serious surgical complications after receiving care from a physician employed by a health clinic that receives United States Health and Human Services funding to provide health care to underserved populations. The physician was deemed as an employee of the Public Health Service for purposes of the Federal Tort Claims Act. I identified and worked closely with a team of medical experts to evaluate plaintiff's injuries, future care needs, and claims of medical negligence. My work on this case involved handling all written and expert discovery; taking, defending and supervising several depositions of physicians and caretakers, and leading the negotiations for a successful resolution at mediation.

Through my timely preparation of settlement materials and thorough development of expert analysis and risk assessment, the United States reached a fair settlement in mediation.

Co-counsel:

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Opposing Counsel:

John Ferguson



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10. United States of America ex rel. Salina Savage et al. v. CH2M Hill Plateau Remediation Company et al.  
Case No. 14-cv-5002-SMJ  
United States District Court for the Eastern District of Washington  
The Honorable Edward Shea and The Honorable Salvador Mendoza Jr.  
2013-2020

I represented the United States in a False Claims Act case against government contractors for small business fraud at the Department of Energy Hanford Site. The case originally arose out of a whistleblower complaint filed by a Hanford-area small business owner. The whistleblower complaint alleged that the primary defendant, a federal government prime contractor, knowingly misrepresented to the Department of Energy that it was subcontracting to qualified small businesses, including businesses located in Historically Underutilized Business Zones. The prime contractor was eligible for fee-based incentives for subcontracting with qualifying small and disadvantaged businesses over a multi-year contract. My work consisted of coordinating with the Department of Energy Office of Inspector General on its investigation into small business fraud, coordinating written discovery responses, preparing key U.S. Department of Energy employees for deposition, and defending depositions.

The case ultimately settled after I transferred from the U.S. Attorney's Office, where the prime contractor resolved the remaining False Claims Act allegations for over \$3 Million.

Co-Counsel:

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

As detailed above, I have trial experience as well as an extensive background in civil discovery and motion practice. In addition to the significant litigation experience listed above, prior to my time at the U.S. Attorney Office, I practiced in Washington State courts, the District of Columbia, and the Commonwealth of Virginia. At Lee & Hayes, I independently handled an arbitration involving a contract and patent dispute relating to fishing products and was co-counsel for a two-week, complex commercial arbitration before a three-judge panel. While at the U.S. Attorney's Office, I handled a wide variety of Affirmative Civil Enforcement investigations, tort matters, employment discrimination cases, the bankruptcy caseload, and served as the office coordinator to approve federal agents and employees to testify in state criminal proceedings. I also served as the Civil Appellate Coordinator for the Eastern District of Washington, where I reviewed all the civil appellate briefs, coordinated moot arguments, and led trainings for the office on civil appellate case developments and appellate advocacy. I coordinated office-wide trainings on effective and persuasive legal writing.

As a Trial Attorney at the Environmental and Natural Resources Division, I represent the United States and its agencies in federal courts around the country in affirmative and defensive actions under the Clean Air Act, Clean Water Act, and other pollution control statutes. I advise client agencies regarding rulemaking procedures and frequently engage in alternative dispute resolution activities to resolve cases prior to litigation.

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

15. **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.

Conflict of Laws, Gonzaga Law School, Spring 2021. This course examines how legal conflicts have developed in different ways and discusses managing the problems of conflicting rules, shedding light on how rules of law arise, function, and interact or compete. The course includes discussions around domicile, jurisdiction of courts with reference to constitutional limitations, and addresses choice of law in relation to property, family law, contracts, and torts. Syllabus supplied.

Labor Law, Gonzaga Law School, Summer 2020. This course was adapted from the business management course, Employment Law and Labor Relations, listed below. The class addresses U.S. federal employment & labor law and is designed to provide students with tools to work and manage effectively and efficiently with a comprehensive understanding of the legal ramifications of employment-related decisions. The course covers a broad array of workplace legislation and common law rulings regarding the regulation of the employment relationship, civil rights, workplace rights, and labor law. Syllabus supplied.

Employment Law and Labor Relations, Gonzaga School of Business Administration, Spring 2020. This course addresses U.S. federal employment law from a managerial perspective. This is a senior-level undergraduate course designed to provide students with tools to manage effectively and efficiently with a comprehensive understanding of the legal ramifications of employment-related decisions. The course covers a broad array of employment legislation and common law rulings regarding the regulation of the employment relationship, civil rights, workplace rights, and labor law. Syllabus supplied.

Environmental Law, Gonzaga Law School, Spring 2015, Spring 2016, Fall 2016, Spring 2018, Spring 2019. This course provides an overview of economic and philosophical environmental law perspectives, administrative agency actions and judicial review, the National Environmental Policy Act, Clean Water Act, Endangered Species Act, and Clean Air Act. Students develop statutory analysis skills and analyze current environmental law problems. Syllabus supplied.

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

I have no arrangements in the future to be compensated for any financial or business interest.

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

None.

18. **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).

Please see my SF-278 as provided by the Office of Government Ethics.

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

See attached Net Worth Statement.

20. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors 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.

During the nomination process, I consulted with the Department of Justice's ethics office and Designated Ethics Officer to identify any potential conflicts. If I am confirmed, I will continue to consult with that office and will recuse myself from any matter in which recusal is required.

- 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, any potential conflict of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Department's designated agency ethics official. If confirmed, I will continue to consult with the Department of Justice's ethics office and will recuse myself from any matter in which recusal is required.

21. **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. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

Throughout my career I have been committed to performing *pro bono* legal service. While in private practice, I engaged in a variety of pro bono opportunities. At Morrison & Foerster, I invested over 100 hours each year on pro bono work. I worked with the Washington Lawyers' Committee for Civil Rights to ensure that restaurants open to the public provided accessible seating in accordance with the Americans with Disabilities Act. I also represented tenants living in substandard conditions in D.C. Superior Court. At Lee & Hayes, I volunteered with the Moderate Means program.

As a government attorney, I have restrictions on engaging in the outside practice of law, including pro bono practice. I focus on serving my community through teaching and mentorship. I serve as a lawyer mentor through the Washington State Bar Association, Washington Women Lawyers, and the Peggy Browning Fund, providing career support, advice, and training for law students and new attorneys outside of work hours. As the intern coordinator at the U.S. Attorney's Office, I invested at least 50 hours a year to interviewing, training and mentoring law clerks to support their careers in public service.

I also volunteer to judge for several moot court competitions at Gonzaga Law School, and I assisted in preparing the Civil Rights Moot Court Team for their Spring 2020 and Spring 2021 competitions. In 2019, I judged the finals of the YMCA Youth and Government Mock Trial competition. I am an active volunteer for Jesuit Volunteer Corps Northwest, a program that places year-long volunteers at social service agencies. From 2011-2020, my husband and I have supported the Spokane Jesuit Volunteers by volunteering over 40 hours a year hosting and facilitating community reflections and service events.