

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Lance Edward Walker

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

United States District Judge for the District of Maine

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.

Cumberland County Superior Court
Cumberland County Courthouse
205 Newbury Street
Portland, Maine 04101

Residence: Falmouth, Maine

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

1972; Milo, Maine

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.

1998 – 2000: University of Maine School of Law; J.D., 2000

1997 – 1998: Vermont School of Law; no degree (transferred)

1996: Finger Lakes Community College; no degree

1992 – 1996: University of Maine; B.A., 1996

1990 – 1991: Eastern Kentucky University; no degree (transferred)

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.

2015 – present
Maine Superior Court
Cumberland County Courthouse
205 Newbury Street
Portland, Maine 04101
Justice

2014 – 2015
Maine District Court
26 Western Avenue
South Paris, Maine 04281
Judge

2001 – 2014
Norman Hanson & DeTroy LLC
Two Canal Plaza
Portland, Maine 04112
Member (2007 – 2014)
Associate Attorney (2001 – 2007)

2000 – 2001
Maine Superior Court
95 State Street
Augusta, Maine 04330
Law Clerk

1999
Eaton Peabody
80 Exchange Street
Bangor, Maine 04401
Summer Associate

1998 – 1999
University of Southern Maine
96 Falmouth Street
Portland, Maine 04103
Teaching Assistant

1998 – 1999
Riverside Exxon (no longer exists)
132 Riverside Street
Portland, Maine 04103

Sales clerk

1996 – 1997 (approximate)
Nemer Ford
323 Quaker Road
Queensbury, New York 12804
Salesperson

Other Affiliations (uncompensated)

1999 – 2000
University of Maine School of Law
246 Deering Avenue
Portland, Maine 04102
Legal Writing Instructor

1998
Maine Supreme Judicial Court
205 Newbury Street, #139
Portland, Maine 04101
Summer Law Clerk

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 did not serve in the military. I registered for the selective service upon turning 18.

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.

Foxcroft Academy Academic Hall of Fame (2016)

Super Lawyers, New England Rising Star (approximately 2009)

Benchmark Litigation, Future Star (approximately 2008)

Best Lawyers in America (approximately 2007)

Peter Rubin Award for Outstanding Trial Advocacy (2000)

Edward T. Gignoux Award for Outstanding Appellate Advocacy (2000)

First Runner-up Best Oralist, Halifax Trilateral Moot Court Competition (1999)

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 (2000 – 2001).

Cumberland County Bar Association (2001 – 2014)

Maine State Bar Association (2001 – 2013)

Maine Trial Lawyers Association (2010 – 2014)

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.

Maine, 2000

There has been no lapse in membership.

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

United States Court of Appeals for the First Circuit, 2002

United States District Court, District of Maine, 2002

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.

Federalist Society (approximately 1997 – 2002)

National Rifle Association (approximately and intermittently, 2001 – present)

Woodlands Club (approximately 2007 – 2010)

Scarborough Fish & Game Club (approximately 2012 – 2015)

Maine Audubon (approximately 2010 – 2015)

- 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.

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

With Darya Haag, *Superdeluxe Bully: Lessons in Intellectual Property*, Norman Hanson & DeTroy LLC Newsletter, Winter 2013. Copy supplied

Feeling Your Pain: Law Court holds that Emotional Distress is not a Covered "Bodily Injury" in Personal Liability Insurance Policy, Norman Hanson & DeTroy LLC Newsletter, Summer 2013. Copy supplied.

MMG Prevails at Law Court on Sexual Molestation Exclusion, Norman Hanson & DeTroy LLC Newsletter, Summer 2011. Copy supplied.

With Hannah L. Bass, *Maine Insurers Dodge a Bullet*, Norman Hanson & DeTroy LLC Newsletter, Summer 2009. Copy supplied.

Superior Court: Emotional Distress Does Not Constitute 'Bodily Injury,' Norman Hanson & DeTroy LLC Newsletter, Winter 2007. Copy supplied.

Law Court: Insurers Lose Control of Defense if Defending Insured Under Reservation of Rights, Norman Hanson & DeTroy LLC Newsletter, Summer 2006. Copy supplied.

Policy holder convicted of arson may sue insurer, Norman Hanson & DeTroy LLC Newsletter, Summer 2003. Copy supplied.

Insuring Acts of Terrorism, Norman Hanson & DeTroy LLC Newsletter, Spring 2003. Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

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

None.

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

December 4, 2015 (approximate date): Speaker, Basics of Alcoholism and Drug Addiction: Disease, Treatment and Recovery. I believe I spoke generally about how to address the problems of addiction. I have no notes, transcript or recording. Press coverage supplied.

May 3, 2013: Speaker, Maine State Bar Association Litigation Institute. I presented on insurance coverage law and litigation strategies. A copy of my written submission associated with the program is supplied.

June 22, 2012: Panelist, Maine State Bar Summer Meeting. I spoke concerning the effect of liability insurance coverage law as it pertains to litigation strategies in real estate cases. A copy of my written submission associated with the program is supplied.

- 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.

Scott Dolan, *Companies That Worked on Plane Blamed in Fatal Maine Crash*, Portland Press Herald, April 25, 2013. Copy supplied.

Although not a traditional interview, I prepared a written submission in connection with my induction into the Foxcroft Academy Academic Hall of Fame in 2016. A copy of that written submission as well as the school's release in connection with the event are attached.

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.

2015 – present
Maine Superior Court
Justice

The Maine Superior Court is the State's trial court of general jurisdiction and the only level of court where jury trials are available. I was nominated to this position by Governor Paul LePage and unanimously confirmed by the Maine Senate.

2014 – 2015
Maine District Court
Judge

The Maine District Court hears civil, criminal and family matters and sits without a jury. I was nominated to this position by Governor Paul LePage and unanimously confirmed by the Maine Senate.

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

Forty-five

- i. Of these, approximately what percent were:

jury trials:	80%
bench trials:	20% [total 100%]
civil proceedings:	20%
criminal proceedings:	80% [total 100%]

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

A list of citations to opinions I have written is included at Appendix 13.b.

- 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) *State v. Ali*, No. 16-CR-4254 (Me. Super. Ct.)

Seventeen protestors from the Black Lives Matter movement were arrested and charged in connection with a demonstration in a public way. The parties agreed to resolve the criminal charges under an agreement that specified a number of conditions, among them that the parties attend a restorative justice meeting. After a dispute arose concerning the terms on which the meeting was to be conducted, the State moved to reinstate the criminal charges. I was asked to preside over the matter after a previous judge was recused. I ultimately denied the State's motion to reinstate the charges. A copy of my decision is attached.

Counsel for the State

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Counsel for Defendants (including counsel for the defendants in several consolidated actions)

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Perkins Law Office

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Julian Richter,
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Gardiner, Maine 04345

(207) 619-1699

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Strike, Goodwin and Butler Bailey
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Heminway Hamlen Law Center, PA
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(207) 221-6363

(2) *State v. Ingalls*, No. 15-CV-487, 2016 Me. Super. LEXIS 55 (Me. Super. Ct. Mar. 17, 2016)

I presided over a civil rights action brought by the State of Maine against Brian Ingalls. Mr. Ingalls and others protested the provision of abortion services outside of a Planned Parenthood facility in Portland, Maine every Friday. The State sought to enjoin Mr. Ingalls from doing so under a statutory provision which prohibits such conduct. Mr. Ingalls argued that the statute was unconstitutional on its face. I concluded that the challenged provision was a permissible time, place, or manner restriction and thus rejected the facial challenge, while permitting Mr. Ingalls to raise an as applied challenge later. I subsequently stayed the case after a federal district court in Maine enjoined enforcement of the statute in a separate case. The State appealed that decision to the First Circuit Court of Appeals, which reversed the district court's judgment. Following the First Circuit's decision, I restored the case to the active docket and entered an order granting the State's motion for a preliminary injunction (that order is reported at 2017 WL 6513585). The case remains pending.

Counsel for the State

Leanne Robbin
Assistant Attorney General
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(207) 626-8581

Counsel for Defendant

Steve Whiting
The Whiting Law Firm, P.A.
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(207) 780-0681

Kate Oliveri,
Thomas More Law Center
24 Frank Lloyd Wright Drive
Suite J-3200
Ann Arbor, Michigan 48106
(734) 827-2001

(3) *State v. Buck*, No. 15-CR-30319 (Me. Super. Ct.)

I presided over a criminal jury trial. Mr. Buck was charged with Gross Sexual

Assault against his daughter. The jury returned a not guilty verdict and the defendant was acquitted. A copy of a portion of the docket reflecting the acquittal is attached.

Counsel for the State

Alexandra W. Winter
Assistant District Attorney
Post Office Box 179
South Paris, Maine 04281
(207) 743-8282

Counsel for Defendant

Jeff Wilson,
Braun & Wilson, P.C.
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(207) 743-2096

Maurice Porter
Law Office of Maurice Porter
22 Waterford Road
Norway, Maine 04268
(207) 671-3755

(4) *State v. Ames*, No. 16-AND-172 (Me. Super. Ct.)

I was the suppression hearing judge in this case, which raised the question of whether a defendant incarcerated on a probation violation hold was considered in custody for purposes of *Miranda v. Arizona*, 384 U.S. 436 (1966). I concluded that the defendant was not in custody and denied the defendant's motion to suppress his statements. Defendant entered a conditional guilty plea and appealed the suppression ruling to the Maine Supreme Judicial Court, which affirmed the decision denying the motion to suppress. A copy of my decision is attached.

Counsel for the State

Andrew Matulis
55 Lisbon Street
Lewiston, Maine 04240
(207) 753-2547

Counsel for Defendant

Mark Peltier

RDCP Lawyers
97A Exchange Street #404
Portland, Maine 04101
(207) 358-4909

(5) *Vafiades v. Me. State Harness Racing Comm'n*, No. CUMSC-AP-16-21 (Me. Super. Ct.)

I presided over an appeal to the Superior Court of a decision by the Maine Harness Racing Commission concerning testing for cobalt in race horses as well as whether and to what extent this naturally occurring element could constitute a prohibited performance enhancing substance. I granted the appellants' motion to stay discipline imposed by the Commission pending the outcome of the appeal and subsequently affirmed the decision of the Commission. My decision granting plaintiff's motion to stay is published at 2016 Me. Super. LEXIS 112. A copy of my decision affirming the Commission's decision is attached.

Counsel for Petitioners

Craig Rancourt
13 Crescent Street
Biddeford, Maine 04055
(207) 282-6949

William Childs
350 East Bridge Street
Westbrook, Maine 04092
(207) 773-0275

Counsel for Respondent

Ronald Guay
Office of the Maine Attorney General
109 Sewall Street
Augusta, Maine 04333
(207) 626-8800

(6) *City of S. Portland v. Me. Mun. Ass'n*, No. CV-PORSC-15-196, 2016 Me. Super. LEXIS 40 (Me. Super. Ct.)

This case concerned the question of whether an insurance risk pool was obligated to provide a defense to the City of South Portland in an underlying federal district court action challenging a municipal ordinance. I granted the risk pool's motion for summary judgment, concluding that the risk pool had no obligation to defend the city in the federal-court litigation because the complaint requested only

nonmonetary relief. The Law Court affirmed my decision, on the different ground that any monetary relief would be excluded from coverage.

Counsel for the City of South Portland and Code Enforcement Officer Patricia Doucette

James Bowie
Thompson Bowie & Hatch LLC
415 Congress Street
Post Office Box 4630,
Portland, Maine 04112-4630
(207) 774-2500

Counsel for Maine Municipal Association Property & Casualty Pool

Roy Pierce
Jensen Baird Gardner & Henry
Portland, Maine 04101
(207) 775-7271

(7) *Burka v Burka*, No. 2016-CV-20 (Me. Super. Ct.)

This case involved multi-jurisdictional litigation between former spouses. I granted defendant's motion to dismiss plaintiff's claims of invasion of privacy by intrusion upon seclusion, as well as a claim under the California Comprehensive Computer Data Access and Fraud Act. Following discovery, I granted defendant's motion for summary judgment on the remaining claims. The plaintiff filed an appeal, which she later withdrew. My decision on the motion to dismiss is published at 2016 Me. Super. LEXIS 64. My decision on the motion for summary judgment is sealed.

Counsel for Plaintiff

Robert Mittel
MittelAsen, LLC
Post Office Box 427
85 Exchange Street
Portland, Maine 04112
(207) 775-3101

Counsel for Defendant

Michael Donlan
One Portland Square
Post Office Box 586
Portland, Maine 04112

(207) 774-4000

(8) *State v. Nerval*, No. 14-CR-789 (Me. Super. Ct.).

This case was a criminal jury trial for aggravated drug trafficking. The jury returned a guilty verdict. Mr. Nerval filed a motion for judgment of acquittal and new trial based upon several issues, among them allegations of *Brady* and *Giglio* violations. I denied both motions. Mr. Nerval appealed, and the Law Court affirmed in all respects. A copy of my decision denying the motion for a new trial is attached.

Counsel for the State

David Fisher
Assistant Attorney General
Criminal Division
6 State House Station
Augusta, Maine 04333
(207) 626-8800

Counsel for Defendant

Adam Sherman
Sherman and Worden PA
Post Office Box 261
Auburn, Maine 04212
(207) 344-9362

(9) *City of Lewiston v. Androscoggin Cty.*, No. 15-CV-118 (Me. Super. Ct.).

Several municipalities in Androscoggin County brought suit against the County and its Commissioners asserting claims for declaratory judgment, breach of fiduciary duty, and unjust enrichment. I entered summary judgment in favor of plaintiffs in part and defendants in part. The judgment was not appealed. A copy of the decision on the motions for summary judgment is attached.

Counsel for Plaintiffs

Peter Brann
184 Main Street
Fourth Floor
Post Office Box 3070
Lewiston, Maine 04243
(207) 786-3566

Counsel for Defendants

Bryan Dench
Skelton, Taintor & Abbott
95 Main Street
Auburn, Maine 04210
(207) 784-3200

(10) *Seal Cove v. Spinnaker Trust*, No. 2016-CV-333, 2017 Me. Super. LEXIS 105 (Me. Super. Ct. May 3, 2017).

In this case, the plaintiff – a museum – sought a declaratory judgment that it was a beneficiary of a charitable trust as well as various other forms of declaratory and injunctive relief against the Trustees. I resolved the case by granting defendants’ motion to dismiss for lack of standing. Specifically, I concluded that the plaintiff was neither a qualified beneficiary nor a party specifically injured by the Trust, and thus ruled that enforcement could only be sought by the Maine Attorney General. The Attorney General is currently seeking to enforce the trust.

Counsel for Plaintiff

Timothy Bryant
Preti Flaherty
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Counsel for Defendants

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Counsel for the Attorney General:

Linda Conti, Assistant Attorney General
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109 Sewall Street
Augusta, Maine 04330
(207) 626-8800

- 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) *State v. Ali*, No. 16-CR-4254 (Me. Super. Ct. May 23, 2017). A copy of my decision denying the state's motion to restore criminal charges is attached.

Counsel for the State

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142 Federal Street
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Counsel for Defendants (including Counsel for the defendants in several consolidated actions)

Tom Hallett (lead counsel)
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(2) *State v. Ingalls*, No. 15-CV-487, 2016 Me. Super. LEXIS 55 (Me. Super. Ct. Mar. 17, 2016). A copy of my recent decision granting a preliminary injunction is reported at 2017 WL 6513585.

Counsel for the State

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Counsel for Defendant

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(207) 780-0681

(3) *State v. Ames*, No. 16-AND-172 (Me. Super. Ct.). A copy of my decision denying defendant's motion to suppress is attached.

Counsel for the State

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Counsel for Defendant

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(207) 358-4909

(4) *Vafiades v. Me. State Harness Racing Comm'n*, No. CUMSC-AP-16-21 (Me. Super. Ct.). My decision granting plaintiff's motion to stay is published at 2016 Me. Super. LEXIS 112. A copy of my decision affirming the Commission's decision is attached.

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(5) *City of S. Portland v. Me. Mun. Ass'n*, No. CV-PORSC-15-196, 2016 Me. Super. LEXIS 40 (Me. Super. Ct. Feb. 25, 2016).

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(6) *Bryant v. Town of Wiscasset*, No. LINSC-AP-15-001, 2016 Me. Super. LEXIS 306 (Me. Super. Ct. Sept. 21, 2016).

Counsel for Plaintiff

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Counsel for Defendant

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(7) *Brooks v. Lemieux*, NO. CUMSC-CV-14-293, 2016 Me. Super. LEXIS 23
(Me. Super. Ct. Feb. 4, 2016).

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(8) *City of Lewiston v. Androscoggin Cty.*, No. AUBSC-CV-15-118, 2016 Me.
Super. LEXIS 44 (Me. Super. Ct. Mar. 21, 2016).

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(9) *Seal Cove v. Spinnaker Trust, et al.*, NO. CV-2016-333, 2017 Me. Super. LEXIS 105 (Me. Super. Ct. May 3, 2017).

Counsel for Plaintiff

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(10) *Burka v. Burka*, No. PORSC-CV-16-20, 2016 Me. Super. LEXIS 64 (Me. Super. Ct. Mar. 29, 2016).

Counsel for Plaintiff

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Counsel for Defendant

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- e. Provide a list of all cases in which certiorari was requested or granted.

None of my decisions have been appealed to the United States Supreme Court.

- 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.

Fissmer v. Town of Cape Elizabeth, No. PORSC-AP-2016-32, 2016 WL 7975575 (Me. Super. Ct. Nov. 21, 2016), *vacated by* 170 A.3d 797 (Me. 2017). This appeal concerned a decision by the Town Zoning Board of Appeals to grant a building permit. I concluded that the Board had properly issued the permit in question. The Law Court vacated that decision and remanded with instructions to deny the permit application.

Yap v. Vinton, No. FM-14-105, *vacated and remanded by* 137 A.3d 194 (Me. 2016). This was a parental rights and responsibilities case in which I issued an order making certain findings of fact and conclusions of law, while directing that the parties share custody of their child. Vacating my decision, the Supreme Judicial Court noted that I had adopted the proposed findings and conclusions of defendant in their entirety, several of which, in the Court's view, "either resemble[d] a party's advocacy or are not clearly supported in the record" (the Court also noted that the Appellant had not filed a motion for reconsideration or further findings, and has since ruled that such a motion is required to appeal on such grounds). On remand, I issued a new decision that reached the same result; this latter decision was not appealed. My initial decision that was vacated by the Supreme Judicial Court and my subsequent decision on remand are both attached.

City of S. Portland v. Me. Mun. Ass'n, No. CV-PORSC-15-196, 2016 Me. Super. LEXIS 40 (Me. Super. Ct.), *aff'd*, 158 A.3d 11 (Me. 2017). This case concerned the question of whether an insurance risk pool was obligated to provide a defense to the City of South Portland in an underlying federal district court action challenging a municipal ordinance. I granted the risk pool's motion for summary

judgment, concluding that the risk pool had no obligation to defend the city in the federal-court litigation because the complaint requested only nonmonetary relief. The Law Court suggested that lost-profits damages might have been requested in the complaint, but affirmed on the different ground that any monetary relief would be excluded from coverage.

Brooks v. Lemieux, No. CUMSC-CV-14-293, 2016 Me. Super. LEXIS 23 (Me. Super. Ct. Feb. 4, 2016), *aff'd*, 157 A.3d 798 (Me. 2016). In this action, the plaintiff asserted legal malpractice and tort claims against his former attorney. I granted the defendant's motion for summary judgment, concluding that the plaintiff had failed to present prima facie evidence that the conduct in question caused an injury or loss. The Supreme Judicial Court of Maine held that I should not have refused to consider an affidavit on the grounds that it contradicted prior testimony, but held that this error was harmless because the affidavit was deficient for other reasons I identified in my decision.

- 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.

When I was a judge on the Maine District Court, approximately 50% of all decisions came from the bench in open court and are stored electronically. Those matters also contained orders but those are ordinarily cursory form orders that are not published.

As a Justice on the Maine Superior Court, many of my decisions are published electronically on Lexis and/or Westlaw. I estimate that most of my decisions, perhaps as many as 75%, are in fact published. The original decision is kept and maintained in the official court file in the clerk's office.

- 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.

State v. Ingalls, No CV-15-487, 2016 Me. Super. LEXIS 55 (Me. Super. Ct. March 17, 2016).

State v. Ames, No.CR-15-645 (Me. Super. Ct. January 7, 2016), *aff'd*, 155 A.3d 881 (Me. 2017). A copy of my decision is attached.

- 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.

None.

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 personally review every new case that is assigned to me to determine whether I have a conflict of interest or whether my impartiality in the matter might reasonably be questioned. I have never been asked by an attorney or a party to recuse myself for any reason. I have recused myself pre-emptively from any litigation involving the law firm where I practiced. I have also recused myself from any cases involving Seth Carey, because I was a subpoenaed witness for Bar Counsel for the Maine Board of Bar Overseers in a disciplinary action against Mr. Carey.

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.

2012 – 2013

Combat Sports Authority of Maine

I was appointed by Governor Paul LePage to a seven-member board to oversee the regulation of boxing and mixed martial arts.

- 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.

None.

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;

Law clerk to Justices Donald Marden, John Atwood, and Kirk Studstrup;
Maine Superior Court, Kennebec County, 2000 – 2001.

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

I have never practiced alone.

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

2001 – 2014
Norman Hanson & DeTroy LLC
2 Canal Plaza
Portland, Maine 04112
Member (2007 – 2014)
Associate Attorney (2001 – 2007)

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.

I spent my private practice career as a trial lawyer. My practice consisted of litigation and trial work in a full-service law firm of approximately 40

attorneys. The firm's business was derived largely from personal and commercial lines insurance companies providing a defense to their insureds who were defendants in matters ranging from products liability to personal injury matters. That general composition remained largely intact during my time in private practice, although my focus and commensurate reputation developed as an expert in complex insurance coverage matters.

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

My clients were mainly insureds, although my legal fees were paid for by various insurance companies. My representative clients were homeowners, automobile operators, contractors, marine electricians, and other small businesses who may have been the target of civil litigation. In my capacity as coverage counsel, for which I became known later in my career, I represented regional and national insurance companies directly.

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

During my years in private practice, 2001 to 2014, my practice was almost exclusively litigation. I appeared in court somewhere between occasionally and frequently for litigation-related tasks such as arguing motions, attending discovery conferences, trial management conferences, and pre-trial conferences, conducting trials, and arguing appeals. When I started in private practice, I handled general civil litigation matters, which required more frequent court appearances than my last few years in practice. While still very much litigation oriented, my practice in those later years focused more on complex civil litigation such as insurance coverage matters, which involved traditional litigation but resulted in fewer court appearances.

- i. Indicate the percentage of your practice in:

1. federal courts:	5%
2. state courts of record:	95%
3. other courts:	0%
4. administrative agencies:	0%

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	97%
2. criminal proceedings:	3%

- 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.

Approximately twenty cases, all of which I was sole counsel.

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.

None.

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) *Great Am. Ins. Co. v. Pride*, 847 F. Supp. 2d 191 (D. Me. 2012).

This case was an admiralty action arising from the onboard fire and sinking of a vessel in 2008. The Plaintiffs claimed that the fire and sinking were caused by the negligence of defendants, the vessel's electrician and mechanic. I represented two of the defendants as lead counsel. I was responsible for organizing and executing a complex discovery plan, including taking and preparing for depositions, written discovery, consulting with expert witnesses, as well as preparing for and trying the case in a bench trial. The court entered judgment in favor of defendants on all counts after a multiple-day bench trial.

Dates of Representation: 2010 – 2012 (approximate)

Presiding Judge: Hon. George Singal

Counsel for Plaintiffs Great American Insurance Company and Kenneth Johnson

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Boston, Massachusetts 02110
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William H. Welte
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(207) 236-7786

Counsel for Defendant John Pride

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Thompson & Bowie, LLP
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Portland, Maine 04112
(207) 774-2500

(2) *Richter v. Vt. Mut. Ins.*, No. 07-CV-181, 2008 Me. Super. LEXIS 130 (Me. Super. Ct. Jul. 1, 2008).

This was a suit for contractual damages under the underinsured motorist provision of a personal automobile policy. I represented defendant Vermont Mutual Insurance Company as lead counsel. I was responsible for planning and executing all discovery, motion practice, and all trial duties. After the plaintiff's case had been presented, I argued that judgment should be granted as a matter of law. The Court agreed and entered judgment for my client.

Dates of Representation: 2007 – 2008

Presiding Judge: Hon. Thomas E. Delahanty II

Counsel for Plaintiff

Paul Boots
Post Office Box 7469
Portland, Maine 04112
(207) 773-0410

(3) *Aftermath Inc. v. Estate of Fancy*, No. BANSC-CV-2011-00060 (Me. Sup. Ct.).

I represented the Estate of Richard Fancy in a breach of contract action in approximately 2010 to 2011. Mr. Fancy committed suicide. His widow retained Aftermath, Inc. a biohazard clean-up company to clean the house where the suicide occurred. Aftermath presented a bill in an amount that was approximately the equivalent of 33% of the value of Ms. Fancy's house where the suicide occurred. The case ultimately settled.

Dates of Representation: 2010 – 2011 (approximate)

Presiding Judge: Hon. Ann Murray

Counsel for Plaintiff

Glen L. Porter
Eaton Peabody
80 Exchange Street
Bangor, Maine 04402
(207) 947-0111

(4) *Leonard v. Schemengees Bar and Grille*, No. ANDcv-11-146 (Me. Super. Ct.).

I represented Schemengees Bar and Grille in a Liquor Liability Act claim brought by a patron of my client who was injured as the result of a single-car accident while a passenger in a vehicle driven by one of his friends after an evening of consuming alcoholic beverages. After several months of litigation, the case settled.

Dates of Representation: 2010 – 2011 (approximate)

Presiding Judge: Hon. MaryGay Kennedy

Counsel for Plaintiff

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Kennebunk, Maine 04043
(207) 985-3200

Counsel for Defendants

Thomas Getchell

Troubh Heisler
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Portland, Maine 04104
(207) 780-6789

Deborah Buccina,
Douglas Denham Buccina & Ernst
103 Exchange Street
Post Office Box 7108
Portland, Maine 04112
(207) 774-1486

(5) *Calcagni v. Moody*, No. AUGSC-CV-2012-73 (Me. Super. Ct.).

I represented defendant Moody in a construction dispute; Justices Donald Marden, John Nivison, and Nancy Mills all addressed different aspects of the case. The case settled after I filed a motion for summary judgment.

Dates of Representation: 2012 – 2014 (approximate)

Presiding Judge: Hon. Donald Marden, Hon. John Nivison, Hon. Nancy Mills

Counsel for Plaintiff

Luann Calcagni
72 Winthrop Street
Augusta, Maine 04364
(800) 381-4134

(6) *Costa v. Plowman*, No. CV-2010-274 (Me. Super. Ct.).

I represented plaintiffs in 2010 in an action alleging fraud and failure to disclose defects in connection with the sale of a home against the home sellers and their real estate agency. After several months of litigation, the case settled.

Dates of Representation: 2010

Presiding Judge: Hon. Paul Fritzsche

Co-counsel

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Defendants' Counsel

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Durward Parkinson
Bergen and Parkinson LLC
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Kennebunk, Maine 04043
(207) 985-7000

James Radke,
Law Office of Murtha Cullina LLP
99 High Street, 20th Floor
Boston Massachusetts 02110
(617) 457-4000

(7) *Jacobi v. MMG Ins. Co.*, 17 A.3d 1229 (Me. 2011).

This case raised an issue of first impression in Maine concerning the interpretation and application of a sexual molestation exclusion in an insurance policy. The named insured landlord defaulted against a tenant suing on behalf of her minor daughter claiming that the landlord sexually assaulted her, and the tenant sought to collect the judgment from the defendant insurance company (my client). On cross motions for summary judgment, the Superior Court (Justice Kevin Cuddy, in Hancock County) granted plaintiff's motion and denied my client's cross-motion. I appealed the matter to the Maine Supreme Judicial Court, which reversed the trial court and remanded for entry of judgment in favor of my client, after concluding that the policy exclusion precluded coverage for plaintiff's claims.

Dates of Representation: 2009 – 2010 (approximate)

Presiding Judge: Hon. Kevin Cuddy

Counsel for Plaintiff

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Randall Law Office, P.A.
482 Congress Street Suite 304
Portland, Maine 04101
(207) 775-0002

(8) *Clegg v. Hersey*, No. ALFSC-CV-2012-221 (Me. Super. Ct.).

I represented Bentley's Saloon and Bentley's Booty in a Liquor Liability Act claim from 2012 to 2013. The case settled at mediation after fairly extensive litigation on favorable terms for my clients.

Dates of Representation: 2012 – 2013 (approximate)

Presiding Judge: Hon. Paul Fritzsche

Plaintiff's Counsel

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(207) 284-4581

Counsel for Defendant Hersey

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10521 Judicial Drive
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Fairfax Virginia 22030
(703) 385-6692

(9) *Coffee Pot Café, LLC v. Legacy Sandwich Shop, LLC*, No. 12-CV-00083 (D. Me.).

I represented The Legacy Sandwich Shop in an intellectual property dispute arising out of who had the naming rights of sandwiches previously used by a landmark sandwich shop that had been in continuous operation for 80 years. Upon filing our motion for summary judgment, plaintiff agreed to dismiss the case with prejudice.

Dates of Representation: 2012 (approximate)

Presiding Judge: Hon. David Brock Hornby

Co-Counsel

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Counsel for Plaintiff

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Bangor, Maine 04402
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(10) *Schmitt v. Horace Mann Ins. Co.*, No. CUMcv-07-514 (Me. Super. Ct.).

I represented the defendant insurance company in a fraud in the application case seeking to declare the policy void ab initio. The jury returned a verdict in favor of my client.

Dates of Representation: 2008 (approximate)

Presiding Judge: Hon. Thomas Warren

Counsel for Plaintiff

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Skelton, Taintor & Abbott
95 Main Street
Auburn, Maine 04210
(207) 784-3200

Jennifer Thompson
Associate Corporation Counsel, City of Portland
389 Congress Street
Portland, Maine 04101
(207) 874-8915

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.)

During my time in private practice, I spent a great deal of time advising insurance company clients on general approaches to minimize litigation or to mitigate its impact. For example, I routinely was requested by insurers to provide best practices advice in the context of understanding the intersection between complex legal issues and insurance coverage matters. I was also regularly consulted for my advice regarding Maine law as it related to general liability exposure to personal and commercial lines insurance companies in a variety of tort and contract cases.

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.

Economics, University of Southern Maine, 1999. I was a teaching assistant for an undergraduate level course. I do not have a syllabus of this course.

Legal Writing Instructor, University of Maine School of Law, 1999 – 2000. During my third year of law school, I taught a section of first-year law students legal advocacy through effective writing. I do not have a syllabus of this course.

In addition, I taught a section of a basic pistol course at the Scarborough Fish and Game Club two to three times several years ago. Specifically, I explained basic firearms law to a class of approximately 10 to 15 students. I do not recall the exact dates of this course and do not have any written materials associated with it.

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.

None.

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).

All sources and amounts of income are reflected in the attached financial net worth statement. My only source of income for the year preceding my nomination was that derived in my capacity as Justice of the Maine Superior Court.

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

Attached.

24. **Potential Conflicts of Interest**:

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

The only potential conflict of interest of which I am aware is my previous association with the law firm, Norman Hanson and DeTroy LLC. To identify parties which present an actual or potential conflict-of-interest and to address any conflict were it to arise, I would consult with the Code of Conduct for United States Judges, 28 U.S.C. § 455, and the relevant rules, practices, procedures, and personnel of the District Court, the First Circuit, the Administrative Office of the United States Courts, and the Judicial Conference.

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

If confirmed I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I have provided legal advice and active representation to the disadvantaged. There are two matters that I remember with specificity. The first involved a woman who was a

target in a complicated criminal matter brought about by the actions of her husband. Compounding the problem was a variety of personal afflictions and bail conditions which prohibited her from returning back to Maine. I provided advice to her and spoke with the prosecutor in a successful effort to minimize her exposure and to allow her to return home, which afforded her the leverage needed to avoid criminal prosecution.

The second matter involved a husband and wife who purchased a defective home. He was unemployed but received some level of disability assistance. His wife worked at a low-wage job. During one of the first rain storms after the purchase, the home was flooded so significantly that the heating system and most everything else in the basement was destroyed. I represented the buyers pro bono and successfully sued the real estate agency and seller. The case settled after a few months.

26. **Selection Process:**

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

I submitted my resume to Senator Collins's Federal Appointments Advisory Committee on July 19, 2017. The Committee subsequently invited me to interview for the position; that interview occurred on July 25, 2017 in Bangor, Maine. I was then asked if I could speak to Senator Collins, which conversation took place on August 2, 2017. I received a call from White House staff during the week of August 28, 2017 to schedule a date to interview with White House staff. I attended an interview with White House and Department of Justice staff on September 15, 2017. On or around October 2, 2017, the White House informed me that they were moving forward with my potential nomination. The President submitted my nomination to the Senate on April 10, 2018.

Since the interview, I have continued to have sporadic communications with the Department of Justice, White House Counsel's Office, and Senator Collins' Office.

- 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.