

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Allison Hartwell Eid
Allison Lynn Hartwell (maiden name)

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

United States Circuit Judge for the Tenth Circuit

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: Colorado Supreme Court
Two East 14th Avenue
Denver, Colorado 80203

Residence: Morrison, Colorado

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

1965; Seattle, Washington

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.

1988 – 1991, University of Chicago Law School; J.D. (high honors), 1991

1984 – 1987, Stanford University; A.B. (with distinction), 1987

1983 – 1984, University of Idaho; 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.

2006 – present
Colorado Supreme Court
2 East 14th Avenue
Denver, Colorado 80203
Supreme Court Justice

1998 – 2009; 2011 – 2015
University of Colorado School of Law
2450 Kittredge Loop Drive
Boulder, Colorado 80309
Adjunct Professor (2007 – 2009; 2011 – 2015)
Associate Professor (1998 – 2006; on leave 2005 – 2006)

2010
J. Reuben Clark Law School
Brigham Young University
341 East Campus Drive
Provo, Utah 84602
Visiting Judicial Teaching Fellow

2007
Suffolk University Law School Summer Law Program – Lund, Sweden
120 Tremont Street
Boston, Massachusetts 02108
Adjunct Professor

2005 – 2006
Office of the Colorado Attorney General
1300 Broadway, 10th Floor
Denver, Colorado 80203
Solicitor General

Summer 1991; 1992 – 1993; 1994 – 1998
Arnold & Porter (now Arnold & Porter Kaye Scholer)
370 17th Street, Suite 4400
Denver, Colorado 80202
Associate

1993 – 1994
Honorable Clarence Thomas
United States Supreme Court
1 First Street, NE
Washington, DC 20543
Law Clerk

1991 – 1992

Honorable Jerry E. Smith
United States Court of Appeals for the Fifth Circuit
515 Rusk Avenue
Houston, Texas 77002
Law Clerk

Summer 1989 & Summer 1990
Brown & Bain (now Perkins Coie)
2901 North Central Avenue
Phoenix, Arizona 85012
Summer Associate

Summer 1990
Sherman & Howard L.L.C.
633 17th Street, Suite 3000
Denver, Colorado 80202
Summer Associate

1987 – 1988
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202
Special Assistant and Speechwriter to U.S. Secretary of Education William J. Bennett

1987
Republican National Committee
310 First Street, SE
Washington, DC 20003
Temporary Clerical Worker

1987
White House Office of Communications
Eisenhower Executive Office Building
1650 Pennsylvania Avenue
Washington, DC 20502
Intern

Other Affiliations

1999 – 2000
Colorado Association of Corporate Counsel
President, Colorado Chapter
Main Address for the Association of Corporate Counsel:
1025 Connecticut Avenue, NW, Suite 200
Washington, DC 20036

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 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.

Student Appreciation Award for Teaching Excellence, University of Colorado School of Law (2006)

Outstanding Teacher of the Year, Women's Law Caucus, University of Colorado School of Law (2000)

Nominated for Teacher of the Year (1999 and 2001) and received Honorable Mention (2000), University of Colorado School of Law

Hooding Professor and Academic Awards Presenter, University of Colorado School of Law Graduation (2001, 2002, and 2004)

Temple Bar Scholar, London, England (1994)

Degree from the University of Chicago Law School conferred with High Honors

Order of the Coif, University of Chicago Law School

D. Francis Bustin Prize for outstanding *University of Chicago Law Review* comment

The Scribes Law-Review Award (national award for best student-written article in a law review or journal)

Joseph Henry Beale Prize for best performance in first-year writing section, University of Chicago Law School

Bradley Fellowship in Criminal Justice, University of Chicago Law School

Degree from Stanford University conferred with distinction and highest departmental honors

Phi Beta Kappa, Stanford University

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.

Advisory Committee on the Federal Appellate Rules (2010 – 2016)

American Bar Association (1992 – 2005; 2017 – present)

American Law Institute (2006 – present)

Colorado Association of Corporate Counsel (1999 – 2005)
President (1999 – 2000)

Colorado Bar Association (1992 – present)

Colorado Supreme Court (2006 – present)

Liaison Justice:

Civil Rules Committee (2014 – present)

Appellate Rules Committee (2014 – present)

Probate Rules Committee (2014 – present)

Juvenile Rules Committee (2014 – present)

Planning and Analysis Committee (2010 – 2014)

Office of Dispute Resolution Advisory Committee (2006 – 2014)

Standing Committee on Family Issues (2006 – 2014)

Library Committee (2006 – 2014)

Colorado State Judicial Conference Planning Committee (2007 – 2010)

Colorado Bar Association Board of Governors (2006 – 2010)

Colorado Water Court Rules Committee, Chair (2015 – present)

Colorado Judicial Nominating Commissions, *Ex Officio* Chair (2006 – present)

Colorado Women's Bar Association (1992 – present)

University of Colorado School of Law (1998 – 2009; 2011 – 2015)

Faculty Appointments Committee (2000 – 2002; 2003 – 2005)

Faculty Advisor, Joint Masters in Public Policy-JD Program (2002 – 2005)

Faculty Advisor, The Federalist Society (1998 – 2005)

Student Clerkship Advisor (2000 – 2005)

Faculty Chair, State Campaign Task Force to Secure New Building Funds (2004)

Building Committee (1999 – 2000; 2002 – 2003)

Faculty Salary Grievance Committee (2000 – 2001)

Faculty Director, University of Colorado Law Review Symposium (2001)

Faculty Secretary (1998 – 2000)

Legal Writing Subcommittee, Chair (1999 – 2000)

Academic and Student Affairs Committee (1998 – 2000)

United States Senator Wayne Allard Federal Judicial Selection Committee, Chair (1999)

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.

Colorado, 1991

There has been no lapse in membership. I was registered as an inactive member from 1998 to 2005 while on the faculty at the University of Colorado School of Law.

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

United States Supreme Court, 1996

United States Court of Appeals for the Fifth Circuit, 1992 (administratively closed)

United States Court of Appeals for the Ninth Circuit, 1995

United States Court of Appeals for the Tenth Circuit, 1994

United States Court of Appeals for the Federal Circuit, 1996

United States District Court for the District of Colorado, 1992 (administratively closed)

Because I no longer practice law, I have not sought to reactivate my admission to the U.S. Court of Appeals for the Fifth Circuit and the U.S. District Court for the District of Colorado.

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.

Byron White Center for Constitutional Law, University of Colorado School of Law, Board Member, Board of Advisors (2010 – present)

Dividing the Waters, The National Judicial College, Convener (2015 – present)

The Federalist Society (1988 – present)

J. Reuben Clark Law School, Brigham Young University, Board Member, Board

of Advisors (2017 – present)

Permanent Committee for the Oliver Wendell Holmes Devise, Committee Member (2002 – 2010)

Royal Academy of Dance, London, England (1983 – present)

- b. The American Bar Association’s Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, these organizations do not discriminate, currently or formerly, on the basis of race, sex, or 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.

Preemption and the Federalism Five, 37 Rutgers L.J. 1 (2005). Copy supplied.

Teaching New Federalism, 49 St. Louis U. L. J. 875 (2005). Copy supplied.

The Property Clause and New Federalism, 75 Colo. L. Rev 1241 (2004). Copy supplied.

Federalism and Formalism, 11 Wm. & Mary Bill of Rights J. 1191 (2003). Copy supplied.

Justice White’s Federalism: The (Sometimes) Conflicting Forces of Nationalism, Pragmatism, and Judicial Restraint, 74 U. Colo. L. Rev. 1629 (2003). Copy supplied.

Tort Reform and Federalism: The Supreme Court Talks, Bush Listens, Am. Bar Assn. Human Rights, 10 (Fall 2002). Copy supplied.

The Tort Reform Debate, A View From Colorado, 31 Seton Hall L. Rev. 740

(2001). Copy supplied.

A Spotlight on Structure, 72 U. Colo. Law Rev. 911 (2001). Copy supplied.

Epsteinian Torts: Richard A. Epstein, Cases and Materials on Torts, 25 Seattle U. L. Rev. 89 (2001). Copy supplied.

Bush v. Gore, The Rocky Mountain News (Dec. 17, 2000). Copy supplied.

Private Party Immunities to Section 1983 Suits, 57 U. Chi. L. Rev. 1323 (1990). 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 served on the Advisory Committee on the Federal Appellate Rules from 2010 to 2016. Based upon my recollection and searches of publicly available databases, I have supplied materials related to my service at Appendix 12.b.

As a justice on the Colorado Supreme Court I serve, or have served, as the liaison from the Colorado Supreme Court to the court's Civil, Appellate, Probate, Water and Juvenile Rules Committees, the Standing Committee on Family Issues, and the Office of Dispute Resolution. I also serve as chair of the Water Rules Committee. Based on my recollection and through searches of publicly available databases, I have supplied materials related to these committees as Appendix 12.b.

- 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.

Minutes from meetings of the Advisory Committee on the Federal Appellate Rules previously supplied in response to Question 12.b.

As Colorado Solicitor General I wrote or supervised the writing of the following Attorney General Opinions (copies supplied):

- Formal Opinion No. 06-01 (January 23, 2006)
- Formal Opinion No. 05-07 (October 18, 2005)
- Formal Opinion No. 05-06 (October 17, 2005)
- Formal Opinion No. 05-05 (September 26, 2005)
- Formal Opinion No. 05-04 (August 16, 2005)

- 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.

The following represents my best attempt to compile a list of the speeches and talks that I have given. I have compiled this list through an examination of my own records, speaking with other people, and conducting Internet searches. It may be the case that there are speeches or talks that I have been unable to recall. It is my normal practice to speak without notes. To the extent that I have relied on notes, I have supplied these notes at Appendix 12.d.

May 19, 2017: Panel Moderator, "State Engineer's Evolving Role: Water Court and Consultation Processes." Continuing Legal Education of the Colorado Bar Association, Denver, Colorado. Audio recording supplied.

April 21, 2017: Speaker, Question and Answer Session with Lawyers on Appellate Advocacy. Gibson, Dunn & Crutcher Retreat, Colorado Springs, Colorado. I have no notes, transcript, or recording. The address of Gibson, Dunn & Crutcher is 1005 Connecticut Avenue NW, Washington, DC 20036.

March 31, 2017: Panelist, "A View from the Bench." Spring Conference, American Bar Association Section on Environment, Energy, and Resources Law, Los Angeles, California. I have no notes, transcript, or recording. The address of the ABA Section on Environment, Energy, and Resources Law is 321 North Clark Street, 20th Floor, Chicago, Illinois 60654.

February 11, 2017: Panel Moderator, "Reflections on Justice Thomas and Executive Power." Federalist Society Conference: "Celebrating Justice Thomas: 25 Years on the Supreme Court," Yale Law School, New Haven, Connecticut. I have no notes, transcript, or recording. The address of Yale Law School is 127 Wall Street, New Haven, Connecticut 06511.

December 12, 2016: Volunteer Judge. "We The People" Constitutional Law Competition State High School Finals, Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

November 30, 2016: Panelist, "Appellate Practice." Continuing Legal Education of the Colorado Bar Association, Denver, Colorado. Audio recording supplied.

November 19, 2016: Panel Moderator, "Justice Scalia's Property Rights Jurisprudence." 2016 Federalist Society National Lawyers Convention: "The Jurisprudence and Legacy of Justice Scalia," Washington, DC. Audio recording supplied.

October 5, 2016: Panel Moderator, "Water Disputes: Alternative Dispute Resolution Approaches." Continuing Legal Education of the Colorado Bar Association, Denver, Colorado. Audio recording supplied.

May 7, 2016: Graduation Speaker. University of Colorado School of Law, Boulder, Colorado. Notes supplied.

April 8, 2016: Panel Moderator, "The Constitutional Law Scholarship of Robert Nagel." University of Colorado School of Law Rothgerber Conference, Boulder, Colorado. A video recording is available at <https://www.youtube.com/watch?v=KU3cyn60ZPw>.

February 16 & 17, 2016: Panelist, "State Court Perspectives." Federalist Society, Boalt Hall University of California Berkeley. I have no notes, transcript, or recording. The address of Boalt Hall is 215 Bancroft Way, Berkeley, California 94720.

December 16, 2015: Speaker, "A Judicial Perspective." Colorado Jewish Professional Women, Denver, Colorado. I have no notes, transcript, or recording. The address of Colorado Jewish Professional Women is 300 South Dahlia Street, Denver, Colorado 80246.

December 14, 2015: Volunteer Judge. "We The People" Constitutional Law Competition State High School Finals, Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

November 5, 2015: Speaker, "A Judicial Perspective on the West." Center of the American West, University of Colorado, Boulder. I have no notes, transcript, or recording. The address of the Center of the American West is 282 University Avenue, Boulder, Colorado 80309.

October 9, 2015: Panelist, "The Court's Perspective on Water Rights Proceedings: What Helps, and What Doesn't?" Continuing Legal Education of the Colorado Bar Association, Denver, Colorado. Audio recording supplied.

July 13, 2015: Opening Remarks, "Supreme Court Term in Review." Federalist Society Colorado Lawyers Chapter, Denver, Colorado. I have no notes,

transcript, or recording. The main address for the Federalist Society is 1776 I Street NW, Washington, DC 20006.

July 10, 2015: Panelist, "A View from Colorado." Justice Thomas Clerk Reunion, Park City, Utah. I have no notes, transcript, or recording. The address of Justice Thomas' Chambers is 1 First Street, NE Washington, DC 20543.

June 8, 2015: Welcome Remarks, "We The People." Colorado High School Social Studies Teachers, Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

April 27, 2015: Volunteer Moot Court Judge. University of Chicago Law School. I have no notes, transcript, or recording. The address of the University of Chicago Law School is 1111 East 56th Street, Chicago, Illinois 60637.

April 10, 2015: Opening Remarks, Denver University Water Law Review Symposium Honoring the Retirement of Colorado Supreme Court Justice Gregory J. Hobbs, Denver, Colorado. This presentation is published at *Keynote*, 18 U. Denv. Water L. Rev. 478 (Spring 2015).

February 24, 2015: Volunteer Moot Court Judge. University of Colorado School of Law. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

December 15, 2014: Volunteer Judge. "We The People" Constitutional Law Competition State High School Finals, Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

November 6, 2014: Speaker, "A View from the Colorado Supreme Court." Women's Law Caucus University of Colorado School of Law. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

October 7, 2014: Speaker, "Going to Law School." University of Colorado Political Science Honor Society, Boulder, Colorado. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

June 10, 2014: Welcome Remarks, "We the People" Colorado High School Social Studies Teachers. Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

February 8, 2014: Volunteer Moot Court Judge. Religious Freedom Moot Court, George Washington University Law School, Washington, DC. I have no notes, transcript, or recording. The address of George Washington University Law School is 2000 H Street NW, Washington, DC 20052.

December 16, 2013: Volunteer Judge. "We The People" Constitutional Law Competition State High School Finals, Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

December 6, 2013: Welcome Remarks, "We the People" Colorado High School Social Studies Teachers. Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

October 9, 2013: Panelist, Women in Leadership Lecture Series. Wheeler, Trigg, O'Donnell, Denver, Colorado. I spoke regarding my experience as a Colorado Supreme Court Justice. I have no notes, transcript, or recording. The address of Wheeler, Trigg, O'Donnell is 370 17th Street, Suite 4500, Denver, Colorado 80202.

June 7, 2013: Welcome Remarks, "We the People" Colorado High School Social Studies Teachers. Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

December 17, 2012: Volunteer Judge. "We The People" Constitutional Law Competition State High School Finals, Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

December 17, 2011: Volunteer Judge. "We The People" Constitutional Law Competition State High School Finals, Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

December 16, 2011: Panelist, "Appellate Practice." Continuing Legal Education of the Colorado Bar Association, Denver, Colorado. I have no notes, transcript, or recording. The address of the Colorado Bar Association is 1900 Grant Street #900, Denver, Colorado 80203.

April 28, 2011: Speaker, "What Courts Do." Dennison Elementary Student Council, Lakewood, Colorado. I have no notes, transcript, or recording. The address of Dennison Elementary is 401 Independence Street, Lakewood, Colorado 80226.

March 10, 2011: Volunteer Moot Court Judge. UCLA School of Law. I have no notes, transcript, or recording. The address of UCLA Law School is 385 Charles E. Young Drive East, Los Angeles, California 90095.

March 7, 2011: Volunteer Moot Court Judge. University of Colorado School of Law. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

December 13, 2010: Volunteer Judge. "We The People" Constitutional Law Competition State High School Finals, Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

October 20, 2010: Speaker. "From Law Student to Lawyer: Diverse Perspectives on the Keys to Success." University of Colorado School of Law. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

October 19, 2010: Speaker, "Women in the Law." Colorado Women's Bar Association, Denver, Colorado. I have no notes, transcript, or recording. The address of the Colorado Women's Bar Association is Post Office Box 1918, Denver, Colorado 80201.

April 13, 2010: Speaker, "State Constitutional Law and Why it Matters." University of Chicago Law School Federalist Society Student Chapter. I have no notes, transcript, or recording. The address of the University of Chicago Law School is 1111 East 56th Street, Chicago, Illinois 60637.

February 9, 2010: Volunteer Moot Court Judge. University of Colorado School of Law. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

February 5, 2010: Speaker, "Appellate Advocacy." Colorado Bar Association Appellate Subcommittee Brownbag. I have no notes, transcript, or recording. The address of the Colorado Bar Association is 1900 Grant Street #900, Denver, Colorado 80203.

December 16, 2009: Volunteer Judge. "We the People" Constitutional Law Program, Dennison Elementary, Lakewood, Colorado. I have no notes, transcript, or recording. The address of Dennison Elementary is 401 Independence Street, Lakewood, Colorado 80226.

December 14, 2009: Volunteer Judge. "We The People" Constitutional Law Competition State High School Finals, Denver, Colorado. I have no notes,

transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

November 19, 2009: Panelist, "Appellate Practice." Continuing Legal Education of the Colorado Bar Association, Denver, Colorado. I have no notes, transcript, or recording. The address of the Colorado Bar Association is 1900 Grant Street #900, Denver, Colorado 80203.

November 16, 2009: Speaker, "Appellate Practice." Christian Legal Society, Denver, Colorado. I have no notes, transcript, or recording. The Christian Legal Society has no permanent address.

October 30, 2009: Volunteer Moot Court Judge. J. Reuben Clark Law School Brigham Young University. I have no notes, transcript, or recording. The address of J. Reuben Clark Law School Brigham Young University is 341 East Campus Drive, Provo, Utah 84602.

October 26, 2009: Speaker, "The Colorado Judicial System." League of Women Voters, Denver, Colorado. I have no notes, transcript, or recording. The address of the League of Women Voters is 1410 Grant Street, Denver, Colorado 80203.

August 20, 2009: Speaker, "A View from the Colorado Supreme Court." Retired FBI Agents Association, Golden, Colorado. I have no notes, transcript, or recording. The address of the Retired FBI Agents Association is Post Office Box 320215, Alexandria, Virginia 22320.

January 23, 2009: Panelist, "Rise of the Appellate Litigator and State Solicitors General." University of Texas Law School, Austin, Texas. A transcript is supplied.

December 17, 2008: Volunteer Judge. "We The People" Constitutional Law Competition State High School Finals, Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

June 24, 2008: Welcome Remarks, Delegation of Judges from the Philippines. United States Attorney's Office, Denver, Colorado. I have no notes, transcript, or recording. The address of the United States Attorney's Office is 1801 California Street, Denver, Colorado 80202.

March 7, 2008: Welcome Remarks, University of Colorado at Boulder President's Leadership Program. I have no notes, transcript, or recording. The address of the University of Colorado is 2005 Regent Drive, Boulder, Colorado 80309.

October 25, 2007: Speaker, "A View from the Bench." University of Chicago Alumni Association, Denver, Colorado. I have no notes, transcript, or recording.

The address of the University of Chicago is 5801 South Ellis Avenue, Chicago, Illinois 60637.

July 21, 2007: Speaker, "Ethics." Colorado Bar Association Ethics Committee, Steamboat Springs, Colorado. I have no notes, transcript, or recording. The address of the Colorado Bar Association is 1900 Grant Street #900, Denver, Colorado 80203.

May 2, 2007: Volunteer Moot Court Judge. University of Chicago Law School. I have no notes, transcript, or recording. The address of the University of Chicago Law School is 1111 East 56th Street, Chicago, Illinois 60637.

December 19, 2006: Volunteer Judge. "We the People" Constitutional Law Program, Dennison Elementary, Lakewood, Colorado. I have no notes, transcript, or recording. The address of Dennison Elementary is 401 Independence Street, Lakewood, Colorado 80226.

December 13, 2006: Volunteer Judge. "We The People" Constitutional Law Competition State High School Finals, Denver, Colorado. I have no notes, transcript, or recording. The address of We the People is Post Office Box 18490, Denver, Colorado 80218.

June 28, 2006: Speaker, National Association of State Attorneys General Solicitor General Conference, Big Sky, Montana. I spoke regarding my experience as a state solicitor general. I have no notes, transcript, or recording. The address of the National Association of State Attorneys General is 2030 M Street NW, Washington, DC 20036.

April 28, 2006: Panelist, "Appellate Practice." Appellate Section of the Colorado Bar Association, Denver, Colorado. I have no notes, transcript, or recording. The address of the Colorado Bar Association is 1900 Grant Street #900, Denver, Colorado 80203.

March 13, 2006: Speaker, Swearing-In. Copy supplied.

June 2005: Speaker, "Why Coloradans Should Pay Attention to the U.S. Supreme Court." Capitol Conference organized by Senator Wayne Allard and sponsored by Colorado University and the University of Northern Colorado. I have no notes, transcript, or recording. Senator Allard's present business address is the Livingston Group, 499 South Capitol Street SW, Suite 600, Washington, DC 20003.

April 2005: Presenter, "Preemption and the Federalism Five." Denver University Sturm College of Law Colloquium Series, Denver, Colorado. A formal version of this talk appears at Allison H. Eid, *Preemption and the Federalism Five*, 37 Rutgers L.J. 1 (2005) previously supplied in response to Question 12.a.

February 2005: Presenter, "Preemption and the Federalism Five." University of Colorado School of Law Workshop Series, Boulder, Colorado. A formal version of this talk appears at Allison H. Eid, *Preemption and the Federalism Five*, 37 Rutgers L.J. 1 (2005) previously supplied in response to Question 12.a.

September 2004: Presenter, "The Term of Restraint." 2004 Colorado State Judicial Conference, Denver, Colorado. I spoke regarding the October 2003 Term of the U.S. Supreme Court. I have no notes, transcript, or recording. The address of the Colorado Judicial Branch is 1300 Broadway, Denver, Colorado 80203.

July 2004: Presenter, "The New Federalism Passes By Preemption – Why?" Conference of Western Attorneys General, Sun Valley, Idaho. A formal version of this talk appears at Allison H. Eid, *Preemption and the Federalism Five*, 37 Rutgers L.J. 1 (2005) previously supplied in response to Question 12.a.

June 2004: Presenter, "Campaign Finance Reform and the First Amendment: A Discussion of *McConnell v. FEC*," University of Colorado School of Law Supreme Court Colloquium Series, Boulder, Colorado. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

March 2004: Speaker, "The Machinery of Elections after *Bush v. Gore*." American Civil Liberties Union, University of Colorado School of Law Student Chapter, Boulder, Colorado. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

March 2004: Presenter, "Formalism, Realism and the Rehnquist Court." University of Colorado School of Law Workshop Series, Boulder, Colorado. A formal version of this talk appears at Allison H. Eid, *Federalism and Formalism*, 11 Wm. & Mary Bill of Rights J. 1191 (2003) previously supplied in response to Question 12.a.

January 2004: Presenter, "Public Lands and the New Federalism." University of Colorado School of Law Rothgerber Conference, Boulder, Colorado. A formal version of this talk appears at Allison H. Eid, *The Property Clause and New Federalism*, 75 Colo. L. Rev 1241 (2004) previously supplied in response to Question 12.a.

September 2003: Speaker, "The Status Quo Term," 2003 Colorado State Judicial Conference, Denver, Colorado. I spoke regarding the October 2002 Term of the U.S. Supreme Court. I have no notes, transcript, or recording. The address of the Colorado Judicial Branch is 1300 Broadway, Denver, Colorado 80203.

August 2003: Presenter, "The Constitutional Implications of Punitive Damages: A Discussion of *State Farm v. Campbell*." University of Colorado School of Law

Supreme Court Colloquium Series, Boulder, Colorado. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

February 2003: Speaker, "Tort Law and the New Genetics." Boulder Valley Rotary Club, Boulder, Colorado. I have no notes, transcript, or recording. The address of the Boulder Valley Rotary Club is 6007 Oreg Avenue, Boulder, Colorado 80303.

January 2003: Presenter, "Justice White, Federalism, and Judicial Restraint." University of Colorado School of Law Rothgerber Conference, Boulder, Colorado. A formal version of this talk appears at Allison H. Eid, *Justice White's Federalism: The (Sometimes) Conflicting Forces of Nationalism, Pragmatism, and Judicial Restraint*, 74 U. Colo. L. Rev. 1629 (2003) previously supplied in response to Question 12.a.

January 2003: Panelist, "Federalism, Preemption and the Supreme Court," Federalist Society, Washington, DC. I have no notes, transcript, or recording. The main address of the Federalist Society is 1776 I Street NW, Washington, DC 20006.

October 2002: Speaker, "The Supreme Court's Voucher Decision: Implications for Colorado." University of Colorado School of Law Continuing Legal Education Series, Boulder, Colorado. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

July 2002: Presenter, "Judicial Independence and the First Amendment: A Discussion of Republican Party of *Minnesota v. White*." University of Colorado School of Law Supreme Court Colloquium Series. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

October 2001: Panel Moderator, "Conservative Judicial Activism." University of Colorado School of Law Rothgerber Conference, Boulder, Colorado. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

September 2001: Panel Moderator, "Judicial Independence and Justice Douglas." Colorado Bar Association Convention, Denver, Colorado. I have no notes, transcript, or recording. The address of the Colorado Bar Association is 1900 Grant Street #900, Denver, Colorado 80203.

July 2001: Presenter, "The Medical Marijuana Debate: A Discussion of *United States v. Oakland Cannabis Buyers Cooperative*." University of Colorado School of Law Supreme Court Colloquium Series, Boulder, Colorado. I have no

notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

February 2001: Presenter, "The Importance of Democratic Structure." University of Colorado Law Review Symposium, Boulder, Colorado. A formal version of this talk appears at Allison H. Eid, *A Spotlight on Structure*, 72 U. Colo. Law Rev. 911 (2001) previously supplied in response to Question 12.a.

January 2001: Presenter, "Tort Law in Our Federal System: An Exchange on Constitutional and Policy Considerations." Seton Hall Law Review Symposium, Newark, New Jersey. A formal version of this talk appears at *The Tort Reform Debate, A View From Colorado*, 31 Seton Hall L. Rev. 740 (2001) previously supplied in response to Question 12.a.

December 2000: Speaker, "The Bush Court." Colorado Lawyers Chapter of The Federalist Society, Denver, Colorado. I have no notes, transcript, or recording. The main address of the Federalist Society is 1776 I Street NW, Washington, DC 20006.

September 2000: Presenter, "Romantic Federalism." University of Colorado School of Law Colloquium Series, Boulder, Colorado. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

June 5, 2000, Speaker, Cheyenne Mountain Republican Forum Spring Luncheon, Colorado Springs, Colorado. I spoke regarding my clerkship with Justice Thomas. I have no notes, transcript, or recording. The address of the Cheyenne Mountain Republican Forum is 975 War Eagle Drive, Colorado Springs, Colorado 80919.

June 2000: Presenter, "Grandparent Rights: A Discussion of *Troxel v. Granville*." University of Colorado School of Law Supreme Court Colloquium Series, Boulder, Colorado. I have no notes, transcript, or recording. The address of the University of Colorado School of Law is 2450 Kittredge Loop Drive, Boulder, Colorado 80309.

- 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.

Sara Burnett, *U.S. Attorney Craves Tasks*, Rocky Mtn. News, Sept. 28, 2006, at 20A. Copy supplied.

Clerking for Justice Thomas (KNUS radio Nov. 13, 2005). I have no recording.

Tony Mauro, *Thomas Firing On All Cylinders*, Legal Times, June 26, 1995, at 74.

Copy Supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I was appointed to the Colorado Supreme Court in 2006 by Governor Bill Owens. Pursuant to the Colorado Constitution, a justice's initial appointment to the court is for two years. A justice who wishes to continue to serve on the court must stand for a retention election. All subsequent terms are for 10 years. My retention election occurred November 4, 2008. The results were 1,338,571 votes in favor of retention, 456,337 votes against retention. My current term began January 13, 2009 and expires January 8, 2019.

The Colorado Supreme Court is Colorado's court of last resort. The court has discretionary jurisdiction of cases from the Colorado Court of Appeals. The court also has direct appellate jurisdiction over cases in which a statute has been held to be unconstitutional, cases involving decisions of the Colorado Public Utilities Commission, writs of *habeas corpus*, cases involving adjudication of water rights, summary proceedings initiated under the Colorado Election Code, and prosecutorial appeals concerning search and seizure questions in pending criminal proceedings. All of these appeals are filed directly with the court, and, in these cases bypass the Colorado Court of Appeals. The court also has exclusive jurisdiction to promulgate rules governing practice and procedure in civil and criminal actions.

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

Because I have not been a trial judge or Chief Justice of the Colorado Supreme Court, I have not presided over any cases. As a justice on the Colorado Supreme Court I have participated in the disposition of more than 900 cases where the court has granted a petition for a writ of certiorari.

- i. Of these, approximately what percent were:

jury trials:	0%
bench trials:	0% [total 100%]
civil proceedings:	%
criminal proceedings:	% [total 100%]

I have sought information on the breakdown of civil versus criminal cases appealed to the Colorado Supreme Court from the office of the Clerk of Court. I was informed that Clerk's office does not track this information.

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

The citations to the opinions, concurrences, and dissents that I have written are provided in 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. *Lucero v. People*, 394 P.3d 1128 (Colo. 2017).

The Colorado Supreme Court held that *Graham v. Florida*, 560 U.S. 48 (2010) and *Miller v. Alabama*, 567 U.S. 460 (2012) do not apply to consecutive term-of-years sentences imposed on a juvenile nonhomicide offender for multiple convictions.

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Attorney for Respondent

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(720) 508-6000

2. *Fleury v. Intrawest Winter Park Operations, Corp.*, 372 P.3d 349 (Colo. 2016).

The Colorado Supreme Court held that an avalanche that occurs within the bounds of a ski resort qualifies as an “inherent risk of skiing” under the Colorado Ski Safety Act of 1979, Colo. Rev. Stat. Ann. §§ 33-44-101, *et seq.*, precluding skiers from bringing claims against ski area operators for injuries resulting from these kinds of avalanches

Attorneys for Petitioner

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Kimberly A. Viergever
Brian A. Birenbach
Rietz Law Firm, LLC
Post Office Box 5268
114 Village Place, Suite 301
Dillon, Colorado 80435

3. *Calderon v. American Family Mut. Ins. Co.*, 383 P.3d 676 (Colo. 2016)

The Colorado Supreme Court held that the statutory provision prohibiting setoff from uninsured/underinsured motorist coverage prohibited setoff for medical payments coverage.

Attorneys for Petitioner

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Attorneys for Respondent

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Jacquelyn S. Booker
Katie B. Johnson
Sutton Booker, P.C.
4949 South Syracuse Street, Suite 520
Denver, Colorado 80237

4. *People v. Herrera*, 357 P.3d 1227 (Colo. 2015)

The Colorado Supreme Court held that a warrant authorizing a search of a cellphone for texts between a defendant and a particular person as well as for indicia of ownership, did not permit the police to search a message folder of texts under a different name.

Attorney for Plaintiff-Appellant

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Attorney for Defendant-Appellee

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Cañon City, Colorado 81212-6709.
(719) 276-1000

5. *Coats v. Dish Network*, 350 P.3d 849 (Colo. 2015)

The Colorado Supreme Court held that Colorado's "lawful activities statute," which generally prohibits termination of employees for engaging in lawful activities during non-work hours, did not prohibit Dish Network from firing an employee who failed a drug test despite being a registered medical marijuana patient. The Court held that an activity that is unlawful under federal law is not a lawful activity under the lawful activities statute notwithstanding Colorado's Medical Marijuana Amendment.

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Ann Christoff Purvis
Elizabeth Imhoff Mabey
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Denver, Colorado 80246
(303) 597-4000

6. *In re Application for Water Rights of Colorado Water Conservation Bd. in the San Miguel River*, 346 P.3d 52 (Colo. 2015)

The Colorado Supreme Court held that the appropriation of an “instream flow right” by the Colorado Water Conservation Board was a quasi-legislative decision rather than a quasi-judicial decision. As a consequence, the Board’s decision did not need to satisfy procedural due process standards applicable to a quasi-judicial administrative action.

Attorney for Appellant

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Attorneys for Intervenor-Appellee

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Bart Miller
Western Resource Advocates
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(303) 444-1188

7. *Perez v. People*, 302 P.3d 222 (Colo. 2013)

The Colorado Supreme Court held that the routine referral to jurors by number rather than name by a trial court does not deprive a criminal defendant's right to a fair trial including the presumption of innocence.

Attorney for Petitioner

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(303) 893-4380

Attorney for Respondent

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8. *Regents of the Univ. of Colo. v. Students for Concealed Carry on Campus, LLC*, 271 P.3d 496 (Colo. 2012).

The Colorado Supreme Court held that Colorado's Concealed Carry Act divested the Board of Regents of the University of Colorado of the authority to prohibit persons with valid permits to bring a concealed firearm on University grounds.

Attorneys for Petitioners

Patrick T. O'Rourke
Margaret Wilensky
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(303) 860-5691

Attorney for Respondents

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Lakewood, Colorado 80227
(303) 292-2021

9. *Vance v. Wolfe*, 205 P.3d 1165 (Colo. 2009)

The Colorado Supreme Court held that the withdrawal of ground water during coalbed methane production is a “beneficial use” as defined in the Colorado Water Right Determination and Administration Act of 1969, Colo. Rev. Stat. Ann. §§ 37-92-101, *et seq.*, thereby subjecting such use to permitting and administration under the Act.

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Attorney for Defendant-Intervenor-Appellant

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(303) 892-9400

10. *People v. Shell*, 148 P.3d 162 (Colo. 2006)

The Colorado Supreme Court held that Colorado's ban on the unauthorized practice of law does not violate the First Amendment.

Attorney for Petitioner

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Attorney for Respondent

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Centennial, Colorado 80111
(303) 771-1908

- 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. *Lucero v. People*, 394 P.3d 1128 (Colo. 2017).

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2. *Fleury v. Intrawest Winter Park Operations, Corp.*, 372 P.3d 349 (Colo. 2016).

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3. *Calderon v. American Family Mut. Ins. Co.*, 383 P.3d 676 (Colo. 2016)

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4. *People v. Herrera*, 357 P.3d 1227 (Colo. 2015)

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5. *Coats v. Dish Network*, 350 P.3d 849 (Colo. 2015)

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6. *In re Application for Water Rights of Colorado Water Conservation Bd. in the San Miguel River*, 346 P.3d 52 (Colo. 2015)

Attorney for Appellant

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7. *Perez v. People*, 302 P.3d 222 (Colo. 2013)

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8. *Regents of the Univ. of Colo. v. Students for Concealed Carry on Campus, LLC*, 271 P.3d 496 (Colo. 2012).

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Attorneys for Respondents

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9. *Vance v. Wolfe*, 205 P.3d 1165 (Colo. 2009)

Attorneys for Plaintiffs-Appellees

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10. *People v. Shell*, 148 P.3d 162 (Colo. 2006)

Attorney for Petitioner

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Attorney for Respondent

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

I have supplied a list at Appendix 13.e.

- 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.

Below are decisions of the Colorado Supreme Court during my tenure as a justice where a decision of the court which I authored or joined was reversed by the United States Supreme Court.

People v. Madden, 364 P.3d 866 (Colo. 2015) *rev'd and remanded sub nom. Nelson v. Colorado*, – U.S. –, 137 S. Ct. 1249 (2017).

The Colorado Supreme Court held that pursuant to Colorado's Compensation for

Certain Exonerated Persons Act defendants whose convictions have been reversed or vacated must prove their innocence by clear and convincing evidence in order to obtain the refund of costs, fees, and restitution paid pursuant to the invalid conviction. The Supreme Court reversed and held that the Act violated due process.

People v. Vigil, 372 P.3d 1045 (Colo. 2015) and *People v. Tate*, 352 P.3d 959 (Colo. 2015) overruled in part by *Montgomery v. Louisiana*, – U.S. –, 136 S. Ct. 718 (2016).

The Colorado Supreme Court held that the United States Supreme Court's ruling in *Miller v. Alabama*, 567 U.S. 460 (2012), that mandatory sentences of life without parole for defendants under 18 at the time of the crime violates the Eighth Amendment, should not be retroactively applied to cases on collateral review. The Supreme Court held that *Miller v. Alabama* does retroactively apply to cases on collateral review.

- 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.

All of the opinions of the Colorado Supreme Court are published.

- 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.

People v. Richardson, 184 P.3d 755 (Colo. 2008)

Vance v. Wolfe, 205 P.3d 1165 (Colo. 2009)

Perez v. People, 302 P.3d 222 (Colo. 2013) cert. denied, 134 S. Ct. 256 (2013)

Marshall v. People, 309 P.3d 943 (Colo. 2013) cert. denied, 134 S. Ct. 2661 (2014)

People v. Carbajal, 328 P.3d 104 (Colo. 2014)

In re Application for Water Rights of the Colorado Water Conservation Board in the San Miguel River, 346 P.3d 52 (Colo. 2015)

People v. Herrera, 357 P.3d 1227 (Colo. 2015)

People v. Tate, 352 P.3d 959 (Colo. 2015) overruled in part by *Montgomery v. Louisiana*, – U.S. –, 136 S. Ct. 718 (2016)

Ryals v. City of Englewood, 364 P.3d 900 (Colo. 2016)

People v. Crouse, 388 P.3d 39 (Colo. 2017)

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

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

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

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself *sua sponte*;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

My judicial assistant, with assistance from other Court staff, screens for cases from which I am generally recused. The criteria for such recusals include cases involving the Colorado State Personnel Board during the time my husband served as director and cases where my husband’s law firm, Greenberg Traurig, is counsel to one of the parties. If such a case is identified, I take no part in that case (including the decision whether to grant certiorari).

After the initial screening, I personally review each case to ensure that I do not have an actual or apparent conflict of interest. As a result of this review I have recused myself *sua sponte* because of personal reasons, for example, when my daughter had surgery at a party hospital. I then take no part in that case.

I do not recall ever being asked that I recuse from a case.

When I first joined the Colorado Supreme Court in 2006, I recused myself for one year from all cases pending in the Colorado Attorney General’s Office while I was Solicitor General. During that period, for each case, my judicial assistant, with assistance from other Court staff, determined whether the case had been pending at the Attorney General’s Office. If it was, I was automatically recused from the case. After a year, I continued to recuse myself from any case in which I was personally involved as Solicitor General.

A list of cases is supplied at Appendix 14.

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.

Colorado Solicitor General (2005-2006). I was appointed by Colorado Attorney General John Suthers. I resigned my position upon appointment to the Colorado Supreme Court.

- 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.

Volunteer, Ed Zschau for U.S. Senate Campaign (1986). I helped organize a student event on the Stanford campus.

Volunteer, George H.W. Bush for President Campaign (1992). I made signs.

Secretary, Sixth Congressional District Republican Central Committee (1995 – 1999). I maintained a list of Committee members, sent out Committee meeting notices, and filed paperwork for Committee nominations of candidates.

Volunteer Campaign Counsel, Wayne Allard for U.S. Senate Campaign (1996). I was on call in the event of election disputes.

District Captain, Jefferson County Republican Party (1997 – 1999). I helped organize precinct meetings.

Volunteer, John Suthers for Attorney General (1998). I helped organize a fundraiser, made signs, and attended campaign events.

Volunteer, Bill Owens for Governor (1998 and 2002). I made signs and attended campaign events.

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;

From 1991 to 1992 I served as a law clerk to the Honorable Jerry E.

Smith, Circuit Judge of the United States Court of Appeals for the Fifth Circuit.

From 1993 to 1994 I served as a law clerk to the Honorable Clarence Thomas, Associate Justice of the United States Supreme Court.

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

I have not practiced law 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.

1992 – 1993; 1994 – 1998
Arnold & Porter (now Arnold & Porter Kaye Scholer)
370 17th Street, Suite 4400
Denver, Colorado 80202
Associate

2005 – 2006
Office of the Colorado Attorney General
1300 Broadway, 10th Floor
Denver, Colorado 80203
Solicitor General

- 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 in alternative dispute resolution proceedings.

b. Describe:

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

As an associate at Arnold & Porter, my practice consisted of commercial and appellate litigation. I primarily wrote appellate briefs and conducted research for more senior attorneys.

As Colorado Solicitor General I supervised and helped determine legal strategy for appeals cases, as well as select constitutional litigation, handled by the Colorado Attorney General's Office. I was counsel of record for the State of Colorado before the United States Supreme Court.

I was also responsible for coordinating formal Attorney General Opinions, evaluating requests for Colorado's participation in litigation as *amicus curiae*, reviewing and approving proposed regulations from client agencies, supervising the office's deputy and assistant solicitors general, and approving special assistant attorney general appointments.

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

At Arnold & Porter, I specialized in commercial and appellate litigation. My clients included the Hopi Tribe, Philip Morris, and William E. Simon

As Colorado Solicitor General, my client was the State of Colorado. I specialized in appellate practice and constitutional 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.

Virtually all of my practice was in litigation (mostly appellate) and I rarely appeared in court.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 60% (approximately)
- 2. state courts of record: 40% (approximately)
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

At Arnold & Porter:

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

As Colorado Solicitor General:

- 1. civil proceedings: 90% (approximately)
- 2. criminal proceedings: 10% (approximately)

- 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.

While an associate at Arnold & Porter, I was principally engaged in appellate practice. During that time, I participated in approximately 10 appeals where a final decision was entered.

While Colorado Solicitor General, I was responsible for supervising all appellate litigation in which the State of Colorado participated. I would estimate I oversaw more than 200 appeals as Solicitor General.

i. What percentage of these trials were:

- | | |
|--------------|------|
| 1. jury: | 0% |
| 2. non-jury: | 100% |

- 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.

As Colorado Solicitor General, I was counsel for the following filings by the State of Colorado:

Brief for the State of Colorado, *et al.* as *Amicus Curiae* Supporting Petitioner, *Washington v. Recuenco*, 548 U.S. 212 (2006) (No. 05-83). Copies of the brief supplied.

Brief for the State of Colorado in opposition to a petition for a writ of certiorari, *Thorpe v. Colorado*, 546 U.S. 976 (2005) (No. 04-1541). Copies of the brief supplied.

Motion to Affirm filed by Gigi Dennis, Colorado Secretary of State, *Lance v. Dennis*, 546 U.S. 459 (2006) (No. 05-555). Copies of the motion supplied.

Brief for the State of Colorado in opposition to a petition for a writ of certiorari, *Miller v. Colorado*, 541 U.S. 1082 (2004) (No. 04-1679). Copies of the brief supplied.

Brief for the State of Colorado in opposition to a petition for a writ of certiorari, *Clark v. Colorado Dep't of Corrections*, 549 U.S. 1190 (2007) (No. 05-816). Copies of the brief supplied.

I have not participated in oral argument before the Supreme Court.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;

- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *State v. City and County of Denver*, 139 P.3d 635 (Colo. 2006) (per curiam).

As Colorado Solicitor General, I represented the State of Colorado in a declaratory judgment action filed by Denver in light of firearms legislation enacted by Colorado. Denver argued that its firearms ordinances were not preempted by this legislation and, alternatively, that the legislation was unconstitutional under the “home rule” provisions of the Colorado Constitution. I argued this case before the Colorado Supreme Court, which ultimately split 3 – 3 in an order issued in June 2006. Given the tie decision, the trial court’s decision upholding the Denver regulation was affirmed by operation of law.

Date of representation: 2005 – 2006

Co-Counsel

Diana Black
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Counsel for Denver

David Broadwell
Denver City Attorney
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Denver, Colorado 80202
(720) 913-3100

2. *Lance v. Dennis*, 546 U.S. 459 (2006) (per curiam).

As Colorado Solicitor General, I represented the State of Colorado in a challenge to Colorado’s congressional redistricting plan passed by the Colorado General Assembly in 2003. A three judge panel of the United States District Court for the District of Colorado held that the plaintiffs, citizens of Colorado, could not proceed with a lawsuit challenging the Colorado Constitution’s provision for redistricting, as interpreted by the Colorado Supreme Court. I, along with others, drafted a motion to affirm with the United States Supreme Court. In 2006, the Court issued a *per curiam* decision in which the Court held that the *Rooker-Feldman* doctrine did not bar the plaintiffs from proceeding on their claim and vacated the district court’s judgment and remanded the case for further consideration.

Date of representation: 2005 – 2006

Co-Counsel

Hon. Monica Márquez (now a justice on the Colorado Supreme Court)
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Two East 14th Avenue
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Maurice Knaizer (retired)
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Michael Carvin
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Washington, DC 20001
(202) 879-3939

3. *Washington v. Recuenco*, 548 U.S. 212 (2006).

As Colorado Solicitor General, I, along with others, drafted an *amicus* brief supporting the State of Washington, arguing that the failure to submit a sentencing factor to the jury is not a “structural” error and is thus subject to harmless-error analysis. The Court (Thomas, J.) adopted this position.

Date of representation: 2005 – 2006

Co-Counsel

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Counsel for the State of Washington

James Whisman
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(206) 477-9577

Counsel for Recuenco

Jeffrey L. Fisher, *now with*
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Crown Quadrangle
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Stanford, California 94305
(650) 723-2465

4. *Thorpe v. State of Colorado*, No. 04-1541 (U.S. Supreme Court).

As Colorado Solicitor General, I, along with others, drafted a Brief in Opposition to Certiorari in a dormant Commerce Clause challenge to how Colorado was allocating tax refunds mandated by the Colorado's Taxpayer's Bill of Rights. The Court denied *certiorari*.

Date of representation: 2005 – 2006

Co-Counsel

Carolyn Livers (retired)
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Counsel for Petitioner

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5. *Mo's Express, LLC v. Sopkin*, 441 F.3d 1229 (10th Cir. 2006).

As Colorado Solicitor General, I represented the Colorado Public Utilities Commission in an appeal to the United States Court of Appeals for the Tenth Circuit of the dismissal of

an action seeking to enjoin the Commission from taking enforcement action against the plaintiffs, airport shuttle operators, for failure to obtain a certificate of public convenience and necessity. The Tenth Circuit (McConnell, J.) held that the *Rooker-Feldman* doctrine did not bar the plaintiffs' suit.

10th Circuit Panel: Hon. Paul Kelly, Jr.; Hon. Robert H. Henry; Hon. Michael McConnell.

Date of representation: 2005 – 2006

Co-Counsel

David Beckett, *now with*
City of Colorado Springs
Attorney's Office – Utilities Division
107 North Nevada Avenue # 300
Colorado Springs, Colorado 80903

Counsel for Appellants

Richard S. Strauss, *now with*
Silver & DeBoskey, P.C.
The Smith Mansion
1801 York Street
Denver, Colorado 80206
(303) 399-3000

6. *Sender v. Simon*, 84 F.3d 1299 (10th Cir. 1996).

As an associate at Arnold & Porter, I represented two innocent investors in a Ponzi scheme set up as investments funds. Prior to the scheme's collapse, the investors had withdrawn more money from the scheme than they had contributed. The bankruptcy case trustee representing the bankrupt investment funds sued the investors for recovery of amounts in excess of their contribution. The United States District Court for the District Of Colorado entered summary judgment in favor of the investors after concluding that partnership agreements were not enforceable against the innocent investors. On appeal, the United States Court of Appeals for the Tenth Circuit (Brorby, J.) affirmed.

10th Circuit Panel: Hon. Wade Brorby, Hon. Robert McWilliams; Hon. Terry Kern (by designation).

Date of representation: 1994 – 1996

Co-Counsel

James Scarboro (retired)
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Counsel for Plaintiff Appellant

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Bonnie Bell Bond, *now with*
Law Office of Bonnie Bell Bond, LLC
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Greenwood Village, Colorado 80111
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7. *Masayesva v. Hale*, 118 F.3d 1371 (9th Cir. 1997).

As an associate at Arnold & Porter, I represented the Hopi Indian Tribe in a long-running land dispute with the Navajo Nation. I assisting in writing appellate briefs in five consolidated cases. In the Use Case, No. 94-17022, the Ninth Circuit affirmed the district court's monetary award to the Hopi Tribe for use of the land at issue by the Navajo Nation. In the Owelty Case, Nos. 94-17031 and 95-15015, the Ninth Circuit reversed the district court's denial of an owelty payment to Hopi Tribe for the unequal partition of the land at issue. In the Damages Case, Nos. 94-17032 and 95-15029, the Ninth Circuit (Schroeder, J.) reversed the district court's failure to credit the Hopi Tribe for lost grazing opportunity, and affirmed the district court's calculation of damages in other respects.

9th Circuit Panel: Hon. Mary J. Schroeder; Hon. Betty F. Fletcher; Hon. Pamela A. Rymer.

Date of representation: 1994 – 1997

Co-Counsel

Tim Atkeson (deceased) and David Warren (retired)
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Counsel for Intervenor the United States

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Counsel for Appellee

Dale S. Zeitlin
James Balogh
Zeitlin & Balogh (now Zeitlin & Zeitlin)
5050 North 40th Street
Phoenix, Arizona 85018

8. *Trout Unlimited v. U.S. Dep't of Agriculture*, 441 F.3d 1214 (10th Cir. 2006).

As Colorado Solicitor General, I, along with others, drafted a reply brief in a case in which the district court had remanded for further consideration a decision of the Forest Service to issue a permit involving a reservoir. The United State Court of Appeals for the Tenth Circuit (Murphy, J.) found that it had no jurisdiction over the decision of the district court because it was not a final appealable order.

10th Circuit: Hon. Michael R. Murphy; Hon. Stephen H. Anderson; Hon. Terrence L. O'Brien.

Date of representation: 2005 – 2006

Co-Counsel

Peter J. Ampe, *now with*
Hill & Robbins
1660 Lincoln Street, Suite 2720
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Counsel for Trout Unlimited

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Counsel for the Department of Agriculture

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950 Pennsylvania Avenue
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9. *Miller v. Colorado*, No. 04-1679 (U.S. Supreme Court).

As Colorado Solicitor General, I, along with others, drafted a Brief in Opposition to

Certiorari in a case involving third party permission to search, recommending that the case should be held for *Georgia v. Randolph*, 547 U.S. 103 (2006). The Court granted the petition, vacated the case, and remanded for further consideration in light of *Georgia v. Randolph*.

Date of representation: 2005 – 2006

Co-Counsel

Rebecca Adams
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Counsel for Petitioner

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10. *Clark v. Colorado Dep't of Corrections*, No. 05-816 (U.S. Supreme Court).

As Colorado Solicitor General, I along with others, drafted a Brief in Opposition to Certiorari in a case involving exhaustion requirements under the Prison Litigation Reform Act of 1995. The Court granted the petition, vacated the case, and remanded for further consideration in light of *Jones v. Bock*, 549 U.S. 199 (2007).

Co-Counsel

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Counsel for Petitioner

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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.)

As Solicitor General of Colorado, I wrote or supervised the writing of Attorney General Opinions, including:

Formal Opinion No. 05-04 (August 16, 2005)
Formal Opinion No. 05-5 (September 26, 2005)
Formal Opinion No. 05-6 (October 17, 2005)
Formal Opinion No. 05-07 (October 18, 2005)
Formal Opinion No. 06-01 (January 23, 2006)

Copies of these opinions are previously supplied in response to Question 12.c.

I have not performed lobbying activities.

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.

As an Adjunct Professor

Fall 2015: Advanced Torts, University of Colorado School of Law

Fall 2014: Advanced Torts, University of Colorado School of Law

Fall 2012: Advanced Torts, University of Colorado School of Law

Spring 2011: Advanced Torts, University of Colorado School of Law

October 11-16, 2010: Comparative Constitutional Law, J. Reuben Clark Law School
Brigham Young University

Fall 2009: Torts, University of Colorado School of Law

Fall 2008: Comparative Constitutional Law Seminar, University of Colorado School of
Law

June 2007: Comparative Constitutional Law, Suffolk Law School Summer Program,

Lund, Sweden

Spring 2007: Advanced Federalism Seminar, University of Colorado School of Law

As an Associate Professor, University of Colorado School of Law

Torts (1998 – 2004)

Advanced Torts (1999 – 2005)

Legislation (2001 – 2003)

Constitutional Law (2004 – 2005)

Bioethics (1999)

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

I am a participant in the Colorado Public Employment Retirement system. I have made no arrangements regarding disposition of my retirement funds.

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

I plan on continuing to teach on an adjunct basis.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

My husband is a shareholder in the Denver Office of Greenberg Traurig LLP and I would recuse myself from cases in which the firm is involved. I would also recuse myself from cases in which I have a financial interest. Should other conflicts arise, I will adhere to the Code of Conduct for United States Judges and other applicable law.

- 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. Moreover, I would also recuse myself from cases involving questions that have previously been certified to the Colorado Supreme Court.

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

As an associate at Arnold & Porter, I represented, on a *pro bono* basis, high school students seeking to start Christian groups at schools and veterans seeking to recover VA benefits. I do not recall the amount of time I spent on these matters.

As a Justice on the Colorado Supreme Court, I take part in the Court's Pro Bono Recognition Program, which recognizes law firms, solo practitioners and in-house counsel or government groups that have pledged to a goal of 50 hours of *pro bono* legal services a year for each of their attorneys.

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.

In February, 2017, I spoke with Senator Cory Gardner regarding the possible vacancy in the event now-Justice Gorsuch was confirmed and appointed to the Supreme Court. On April 9, 2017, I was contacted by the White House Counsel's Office regarding the vacancy. On April 10, 2017, I spoke with White House Counsel Don McGahn regarding the vacancy. On April 13, 2017, Senator Gardner informed me that the White House had decided to proceed with my nomination. This was confirmed to me by the White House Counsel's Office on April 20, 2017. Since that time, I have been in regular contact with the White House Counsel's Office and with Department of Justice Office of Legal Policy.

- 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.