

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Byron Browning Conway

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

United States District Judge for the Eastern District of Wisconsin

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.

Habush Habush & Rottier S.C.
408 South Monroe Avenue
Green Bay, Wisconsin 53202

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

1976; Green Bay, Wisconsin

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.

1999 – 2002; Marquette University Law School; J.D., 2002

Summer 2000; The University of Queensland, Australia; International Law Certificate, 2000

1994 – 1998; Santa Clara University; B.A., 1998

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
Habush Habush & Rottier S.C.

408 South Monroe Avenue
Green Bay, Wisconsin 54305
Shareholder (2010 – present)
Associate (2006 – 2010)

2002 – 2006; 2001 - 2002
Gimbel Reilly Guerin & Brown LLP
330 East Kilbourn Avenue, Suite 1170
Milwaukee, Wisconsin 53202
Associate (2002 – 2006)
Clerk (2001 – 2002)

Summer 2001
Kravit, Gass, Hovel & Leitner (defunct)
Milwaukee, Wisconsin
Summer Associate

Summer 1999
Melvin Bees Truck Stop
1114 North State Street
Chicago, Illinois 60610
Waiter

1998 – 1999
Vail Resorts
Vail, Colorado 81657
Chairlift operator

Summer 1998
Law Firm of Conway, Olejniczak & Jerry, SC
231 South Adams Street
Green Bay, Wisconsin 54301
Intern

Other Affiliations (uncompensated)

2019 – present
Brain Center of Green Bay
716 South Madison Street
Green Bay, Wisconsin 54301
Vice President, Board of Directors (2021 – present)
Member, Board of Directors (2019 – 2021)

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 when I turned 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.

National Board of Trial Advocacy, Board Certification Civil Trial Law (2019)

Life Fellow of the American Bar Foundation (2019)

Fellow, Wisconsin Law Foundation (2015)

Wisconsin Super Lawyers, Top 50 (2014, 2019)

Wisconsin Super Lawyers (2011 – 2023)

Wisconsin Super Lawyers, Rising Stars (2007 – 2010)

CALI Excellence Award, Business Torts, Marquette University Law School (2002)

National Mock Trial Team, Regional Finalist, Marquette University Law School (2001)

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 Association for Justice (2006 – present)

American Bar Association (2002 – present)

American Bar Foundation (2019 – present)

Brown County Bar Association (2006 – present)

President (2012)

Executive Committee (2009 – 2012)

President, Brown County Young Lawyers Association (2008)

Hon. Robert J. Parins American Inn of Court (2007 – 2016)

Hon. Robert J. Parins Legal Society of Northeast Wisconsin (2017 – present)

Milwaukee County Bar Association (2002 – 2006)

Wisconsin State Bar Board of Governors, District 14 Representative (2013 – 2019)

Litigation Section liaison (2016 – 2019)
Convention Planning Committee (2002 – 2005, 2019)

Wisconsin Association for Justice (2007 – present)

Wisconsin Law Foundation (2015 – present)

Wisconsin Trial Lawyers Association (2006 – 2007)

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.

Wisconsin, 2002

There have been no lapses in membership.

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

United States District Court for the Eastern District of Wisconsin, 2002
United States District Court for the Western District of Wisconsin, 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.

Brain Center of Green Bay (2019 – present)
Member, Board of Directors (2019 – 2021)
Vice President, Board of Directors (2021 – present)

Greater Green Bay YMCA (2006 – present)
Downtown Green Bay restoration capital campaign committee (2016)

Green Bay Country Club (2010 – present)

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

The YMCA restricted membership to Christian men, but it is my understanding that this restrictive membership policy was overturned in 1931. To the best of my knowledge, none of the other listed organizations currently discriminates or formerly discriminated based on 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.

Attorney Spotlight – Byron B. Conway, Habush Habush & Rottier, Blog (Mar. 2019). Video available at <https://www.youtube.com/watch?v=3cebIOD3aYo>.

What does “contingency” mean?, Habush Habush & Rottier, Blog (Jan. 29, 2013). Video available at <https://www.youtube.com/watch?v=R1ZOuk-lv9o&list=PLwn4pshTcrWdapeQasAnVdVfQkcRoThJb&index=1&t=3s>.

What is the most rewarding part of being a lawyer?, Habush Habush & Rottier, Blog (Jan. 29, 2013). Video available at <https://www.youtube.com/watch?v=Ld4heMNY2f8&list=PLwn4pshTcrWdapeQasAnVdVfQkcRoThJb&index=2>.

What should I look for when hiring an attorney?, Habush Habush & Rottier, Blog (Jan. 29, 2013). Video available at <https://www.youtube.com/watch?v=z03hPy-Bq3g&list=PLwn4pshTcrWdapeQasAnVdVfQkcRoThJb&index=3>.

What should I know about insurance companies?, Habush Habush & Rottier, Blog (Jan. 29, 2013). Video available at <https://www.youtube.com/watch?v=fU0A96cpha0&list=PLwn4pshTcrWdapeQasAnVdVfQkcRoThJb&index=4>.

During my four years on the Brown County Bar Association Executive Committee from 2009 to 2012, I contributed to writing and editing the Brown

County Bar Association's quarterly newsletter, "The Hearsay Exception." This publication contained information and updates on local bar events and activities. "The Hearsay Exception" was archived on the Brown County Bar Association website at <https://www.wisbar.org/Directories/LawRelatedOrgs/Pages/BCBA-Newsletter.aspx>, but the archives seem to have been deleted. I have supplied the editions I could locate.

I was a sports reporter for the student newspaper at Santa Clara University. I am unable to locate any of the articles that I wrote.

- 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.

February 19, 2020: Speaker, "Civil Discovery Overview," Wisconsin State Public Defender's Training: CHIPS, TPR and Civil Discovery, Appleton, Wisconsin. PowerPoint supplied.

November 15, 2019: Moderator, "Judges Speak: Civil Court Litigation Do's and Don'ts," National Business Institute Continuing Legal Education Seminar, Green Bay, Wisconsin. Notes supplied.

March 21, 2014: Speaker, "Making Leadership Your Brand," State Bar of Wisconsin Young Lawyers Division Annual Leadership Conference, Green Bay,

Wisconsin. This was a panel discussion about leadership opportunities available to young lawyers. I have no notes, transcript, or recording. The address for the State Bar of Wisconsin Young Lawyers Division is 5302 Eastpark Boulevard, Madison, Wisconsin 53718.

May 22, 2012: Speaker, "Changes in Auto Insurance Law," Manitowoc Golden K Kiwanis Club, Manitowoc, Wisconsin. Outline supplied.

March 25, 2011: Speaker, "Paralegal's Role in Preparing and Maintaining a Clean Case," Wisconsin Association for Justice Spring Seminar, Green Bay, Wisconsin. Outline 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.

Dan Benson, *11 plead not guilty to alcohol-related citations*, Milwaukee Journal Sentinel (July 12, 2006). Copy supplied.

Derrick Nunnally, *Marshals catch up to colorful character Man*, Milwaukee Journal Sentinel (Jan. 18, 2005). Copy supplied.

Ron Fournier, *Kerry, Edwards locked in tight race in Wisconsin*, The Associated Press (Feb. 18, 2004). Copy supplied.

Juliet Williams, *Wisconsinites rate economy, jobs as top priority*, The Associated Press (Feb. 18, 2004). Copy supplied.

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

I have not served as a judge.

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

- i. Of these cases, approximately what percent were:

jury trials: _____%
bench trials: _____% [total 100%]

- ii. Of these cases, approximately what percent were:

civil proceedings: _____%

criminal proceedings: ____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
 - c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of 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 (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
 - d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
 - e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

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

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

None.

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

I have never been a member of a political party or election committee. I was a volunteer for two or three days with what I believe was called the White House Advance Team during President Clinton's reelection campaign prior to the Democratic National Convention in Chicago, Illinois, in August 1996. My responsibilities were limited to tasks like setting up conference rooms and coordinating supplies of food and beverages.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not clerk for a judge.

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

I have never been a solo practitioner.

- 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;

2002 – 2006

Gimbel Reilly Guerin & Brown LLP
330 East Kilbourn Avenue, Suite 1170
Milwaukee, Wisconsin 53202
Associate

2006 – present

Habush Habush & Rottier S.C.
408 South Monroe Avenue
Green Bay, Wisconsin 54305
Associate (2006 – 2010)
Shareholder (2010 – present)

- 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.

From 2002 to 2006, I was an associate at Gimbel Reilly Guerin & Brown LLP. I handled a wide variety of cases, including misdemeanor and felony criminal matters, including, drug offenses, battery, burglary, and white collar crimes; municipal law cases ranging from zoning and license applications to ordinance violations; employment law; immigration law; and a broad range of civil litigation. On the criminal side, I handled initial appearances, plea hearings, sentencing hearings, motions to suppress, bench trials, and jury trials. I also spent many evenings in municipal courts contesting traffic citations, municipal ordinance violations, and other municipal matters. Some of those cases were resolved by bench trials.

From 2006 to present, I have been employed at Habush Habush & Rottier S.C. I began with the firm as an associate. I became a shareholder in 2010. My practice at Habush Habush & Rottier S.C. has been devoted

primarily to civil litigation, the majority of which has involved personal injury claims. I have worked on cases involving, among other things: explosions, environmental contamination, product defects, workplace accidents, workers' compensation, motor vehicle accidents, nursing home neglect, premises liability, and insurance coverage disputes. On the civil side, my court appearances have involved, among other things: jury trials, motions on discovery disputes, venue motions, summary judgment hearings, hearings on motions in limine, minor settlement hearings, and pre-trial conferences.

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

During my time as a criminal defense lawyer at the beginning of my career, I represented clients who were charged with various criminal offenses. These cases involved charges that ranged from juvenile drug offenses to white-collar criminal offenses.

During my past 17 years as a civil litigator, most of the people I have represented have been individuals.

- 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.

From 2002 to 2006, when I was handling criminal cases, I made court appearances on an almost daily basis. From 2006 to present, I have continued to have court appearances, though not as frequently.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 5%
- 2. state courts of record: 94%
- 3. other courts: <1%
- 4. administrative agencies: <1%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 80%
- 2. criminal proceedings: 20%

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

I have tried 20 cases before a jury. Nineteen of those cases were tried to verdict. One case ended in a mistrial. I was sole counsel in 10 and I was chief counsel or

co-counsel in the other 10. Additionally, I tried at least five municipal bench trials to judgment.

- i. What percentage of these trials were:
 - 1. jury: 80%
 - 2. non-jury: 20%

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

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. Collard v. Secura Supreme Insurance Company et al., Manitowoc County Case Number 2020CV000439

I represented the decedent's widow in a wrongful death claim stemming from a rear-end collision that resulted in the death of Mr. Collard, a 38-year-old married father of four. Mr. Collard had been driving a pickup truck towing a trailer. The defendant, Mr. Benishek, was a high school senior who was driving home from a graduation celebration. Mr. Benishek was traveling behind the Collard vehicle prior to striking the Collard trailer from behind. Law enforcement seized Mr. Benishek's phone after the accident. It was determined that Mr. Benishek was using multiple apps on his phone in the moments leading up to the accident. He claimed that he was changing the radio and that when he looked back to the road, he saw dim taillights and was unable to avoid a collision with the Collard vehicle.

Mr. Benishek was charged with homicide by negligent operation of a motor vehicle. He was convicted by a jury in October 2021.

The civil wrongful death claim against Mr. Benishek and his insurer, which was filed in December 2020, was complicated by Mr. Benishek's criminal case. Mr. Benishek appealed his conviction, which limited our discovery efforts as Mr. Benishek was entitled not to offer testimony in the civil case until the conclusion of his criminal case. The defendant's insurance company also claimed that it did not have liability for the accident because of a "criminal act" exclusion in the insurance policy

I handled all aspects of this case. This included overseeing our own liability investigation, establishing damages, researching the applicable statutes and case law, and negotiating the case at mediation. The case was settled at mediation. The terms of the settlement are confidential.

Dates of representation: 2020 – 2022

Judge: Honorable Mark R. Rohrer, Manitowoc County Wisconsin Circuit Court

Opposing counsel:

Lawrence Drabot
Crivello Carlson S.C.
710 North Plankinton Avenue
Suite 500
Milwaukee, WI 53203
(414) 290-7585

Lee Anne Conta
Von Briesen & Roper S.C.
411 East Wisconsin Avenue
Suite 1000
Milwaukee, WI 53202
(414) 287-1520

2. Starks Jr. v. Sentry Insurance Company et al., Brown County Circuit Court Case Number 2019CV001381

In this case we represented former Green Bay Packers running back James Starks, who was injured when the car he was driving was struck by a semi-truck at an intersection. Mr. Starks sustained a concussion in the accident. He was placed in the NFL concussion protocol. Mr. Starks was not medically cleared to play for the remainder of the season. The Green Bay Packers released Mr. Starks following the 2016 season. On the advice of his doctors, Mr. Starks did not resume his NFL career. He sued Sentry Insurance Company for lost wages and benefits that Mr. Starks would have received had he not sustained this career-ending injury.

I handled all aspects of this case during litigation, including motions to compel discovery, motions to disqualify expert witnesses, expert depositions, and other discovery. Both

sides hired experts to opine on interpretation of the NFL's collective bargaining agreement and as to the future earning potential of a player of Mr. Starks' age and ability. This case was settled at mediation. The terms of the settlement are confidential.

Dates of representation: 2017 – 2022

Judge: Honorable Marc A. Hammer, Brown County Wisconsin Circuit Court

Co-counsel:

Ralph J. Tease, Jr.
Habush Habush & Rottier S.C.
408 South Monroe Avenue
Green Bay, WI 54301
(920) 437-0900

Opposing counsel:

Jarrod J. Papendorf
Menn Law Firm
2501 East Enterprise Avenue
Appleton, WI 54913
(920) 731-6631

Jacob Sundelius
Menn Law Firm
2501 East Enterprise Avenue
Appleton, WI 54913
(920) 731-6631

3. Papllham v. Allstate Property & Casualty Insurance Company et al., Brown County Circuit Court Case Number 2017CV000176

I represented Mr. Papllham in this suit against Allstate Property & Casualty Insurance Company in a claim for damages sustained by Mr. Papllham as a result of a motor vehicle accident. Mr. Papllham was the driver of a vehicle that was struck by another vehicle that crossed the center line on a highway. Mr. Papllham sustained a low back injury in the collision. Mr. Papllham had a history of low back problems prior to the collision. The defense argued that Mr. Papllham's post-accident low back pain was a temporary aggravation of a pre-existing condition. The case was tried before a jury with disputed issues of causation, future pain and suffering, and the need for future medical expenses.

I was responsible for all aspects of this case from discovery through trial. At trial, I selected the jury. I gave the opening statement. I handled direct examinations and cross examinations of lay and expert witnesses. I made the closing argument. The jury

returned a verdict in favor of Mr. Paplham in the amount of \$323,212. The verdict included \$200,000 for future pain and suffering.

Dates of representation: 2014 – 2018

Judge: Honorable Timothy A. Hinkfuss, Brown County Wisconsin Circuit Court

Opposing counsel:

Gregory L. Knapp
Smith Amundsen, LLC
330 East Kilbourn Avenue, Suite 1100
Milwaukee, WI 53202
(414) 282-7103

4. McGray et al. v. American Family Mutual Insurance Company et al., Oconto County Circuit Court Case Number 2014CV000060

In this case we represented Ms. McGray, a 72-year-old woman who was struck by a vehicle while walking her dog on a rural highway. She was thrown more than 40 feet in the air, resulting in a fractured pelvis and multiple lower extremity fractures. The driver of the vehicle was an elderly man who was blind in one eye. He claimed that he was blinded by the sun in the moments before the collision. The liability aspect of the case was complicated by the fact that Ms. McGray had no memory of the collision and the defendant driver never saw Ms. McGray prior to striking her. Thus, neither party could testify as to exactly where, whether on or off the road, the collision occurred. Both sides retained accident reconstruction experts who disagreed as to whether Ms. McGray was on the shoulder of the road or was on the road when the collision occurred. The defense took the position that Ms. McGray was contributorily negligent because she was standing on the road when she was struck. Though no one witnessed the accident, Ms. McGray's neighbor heard the collision and came upon the scene moments later. The neighbor was a young man who had learning and speech difficulties. A day after the accident, he made an entry about his observations of the accident scene in a diary that he was keeping for the purpose of practicing his writing skills. The diary entry was a crucial piece of evidence as to where the collision occurred. The admission and use of the diary were contested on multiple hearsay grounds both in motions in limine and at trial. The court adopted Ms. McGray's arguments and permitted use of the diary at trial.

I was responsible for all aspects of this case from discovery through trial. At trial, I handled jury selection. I gave the opening statement. I handled direct examinations and cross examinations of the lay and expert witnesses. I made the closing argument. The jury returned a verdict in favor of Ms. McGray and her husband in the amount of \$1,143,049. The jury assigned no negligence to Ms. McGray.

Dates of representation: 2013 – 2017

Judge: Honorable Jay N. Conley, Oconto County Wisconsin Circuit Court

Co-counsel:

Joseph M. Troy
Habush Habush & Rottier S.C.
4100 Boardwalk Court
Appleton, WI 54914
(920) 858-5533

Opposing counsel:

Peter J. Hickey
Everson, Whitney, Everson & Brehm
414 South Jefferson Street
Green Bay, WI 54301
(920) 435-3734

5. Moreau-Stodola v. Veolia ES Solid Waste Midwest Inc. et al., Brown County Circuit Court Case Number 2009CV001495

In this case, we represented an injured pedestrian, Ms. Moreau-Stodola, who lost her left leg when she was struck by a garbage truck operated by a Veolia ES Solid Waste Midwest employee. The employee, who was running late on his route, failed to observe Ms. Moreau-Stodola as he made a left turn onto the street Ms. Moreau-Stodola was crossing. The defense claimed that Ms. Moreau-Stodola entered the crosswalk when the "Don't Walk" signal was flashing. The defense also claimed that Ms. Moreau-Stodola should have seen the truck before it hit her. The focus during discovery was on the time pressure placed upon Veolia drivers to complete their routes. During discovery we learned that the drivers were expected to complete their routes in an unreasonably short duration in relation to the number of stops they were required to make. We alleged that Veolia was aware of, or should have been aware of, the safety risks their policies created. This allegation supported a claim for punitive damages under applicable Wisconsin law.

Discovery in this case resulted in the production of tens of thousands of documents. I coordinated and reviewed the discovery propounded and received. I researched and briefed discovery disputes that required motions to compel. I also prepared our expert witnesses for depositions. The case resulted in a settlement of \$4.5 million for Ms. Moreau-Stodola.

Dates of representation: 2009 – 2010

Judge: Honorable Donald R. Zuidmulder, Brown County Wisconsin Circuit Court

Co-counsel:

Robert L. Habush
Habush Habush & Rottier S.C.
777 East Wisconsin Avenue #2300
Milwaukee, WI 53202
(414) 271-0900

Ralph J. Tease, Jr.
Habush Habush & Rottier S.C.
408 South Monroe Avenue
Green Bay, WI 54301
(920) 437-0900

Opposing counsel:

Kenneth L. Halvachs
Boyle Brasher LLC
P.O. Box 23560
Belleville, IL 62223
(618) 277-9000

6. Brooks v. General Cas. Co. of Wisconsin, Case No. 06-CV-996 (E.D. Wis.)

This case involved an explosion at the Cedar Grove Resort in Ellison Bay, Wisconsin. Our firm represented the children of a Michigan couple who were killed when their resort condominium exploded during the middle of the night. The resort was undergoing an upgrade to its facilities. Earlier that week, an electrical contractor who was installing underground power lines on the property unknowingly ruptured a propane line. The rupture allowed propane to build up underneath the condominium, which led to the explosion.

This was a complex case that included five principal defendants, all of whom were involved to some degree in the upgrade project at the resort. The defendants blamed each other for the oversights that contributed to the failure to identify the location of the underground propane line. I reviewed the voluminous discovery responses which included tens of thousands of documents. I researched legal issues. I wrote briefs for motions to compel discovery. I prepared expert witnesses for depositions. I also defended depositions. The case resulted in a settlement of more than \$21 million for the plaintiffs.

Dates of representation: 2006 – 2008

Judge: Honorable William J. Griesbach, Eastern District of Wisconsin

Co-counsel:

Robert L. Habush

Habush Habush & Rottier S.C.
777 East Wisconsin Avenue #2300
Milwaukee, WI 53202
(414) 271-0900

Ralph J. Tease, Jr.
Habush Habush & Rottier S.C.
408 South Monroe Avenue
Green Bay, Wisconsin 54301
(920) 437-0900

Stuart A. Sklar
Fabian, Sklar & King, P.C.
33450 West Twelve Mile Road
Farmington Hills, MI 48331
(248) 553-2000

Opposing counsel:

Reince R. Priebus
Michael Best & Friedrich LLP
100 East Wisconsin Avenue., Ste 3300
Milwaukee, WI 53202
(414) 271-6560

Charlene B. Wright
Schlee Huber McMullen & Krause PC
P.O. Box 32430
Kansas City, MO 64171
(816) 931-5300

Patrick F. Koenen (deceased)

John M. Thompson
Everson, Whitney, Everson & Brehm
P.O. Box 22248
Green Bay, WI 54301
(920) 435-3734

Donald H. Piper
Piper & Schmidt
732 North Jackson Street, 4th Floor
Milwaukee, WI 53202
(414) 225-4060

7. Meyer et al. v. Triple P Inc. et al., Winnebago County Circuit Court Case Number 2005CV000088

This case arose from a fatal motor vehicle accident involving a Winnebago County Sheriff Deputy who died in the line of duty. We represented Deputy Meyer's widow. Deputy Meyer was operating his vehicle at high speed in response to a report of an attempted burglary. As he responded to the scene late in the evening, Deputy Meyer encountered a road construction site that was improperly marked and guarded. His vehicle hit a gravel pile and rolled over. Deputy Meyer was killed. He was 27 years old. Deputy Meyer was survived by his wife and young children. The claim was brought against the road construction contractor for failing to properly mark and guard the construction site.

I assisted lead counsel with research, particularly on the Uniform Traffic Control Devices standards at issue. I coordinated discovery efforts, drafted proposed jury instructions, drafted the proposed special verdict, and wrote trial briefs. The case was tried before a jury which returned a verdict in favor of our client in the amount of \$2,342,152.

Dates of representation: 2006 – 2007

Judge: Honorable Bruce K. Schmidt, Winnebago County Wisconsin Circuit Court

Co-counsel:

Ralph J. Tease, Jr.
Habush Habush & Rottier S.C.
408 South Monroe Avenue
Green Bay, WI 54301
(920) 437-0900

Craig A. Christensen
Habush Habush & Rottier S.C.
4100 Boardwalk Court
Appleton, WI 54914
(920) 738-0900

Opposing counsel:

Patrick F. Koenen (deceased)

Graeme P. Rattray
Hinshaw & Culbertson LLP
100 West Lawrence Street
Appleton, WI 54911
(920) 738-7550

8. State of Wisconsin v. Kaufmann, Milwaukee County Circuit Court Case Number 2006CF002063

In 2006, I represented Ms. Kaufmann who sought my counsel initially regarding turning herself in on an unsolved, fatal hit-and-run accident. In 2004, Ms. Kaufmann was driving her vehicle home from a bar, following her boyfriend who was driving a vehicle ahead of her. Both Ms. Kaufmann and her boyfriend had been drinking prior to driving home. A pedestrian stepped onto the road and was struck by the vehicle driven by Ms. Kaufmann's boyfriend. Ms. Kaufmann's vehicle then struck the pedestrian after he had fallen onto the pavement. The pedestrian was killed. Ms. Kaufmann's boyfriend insisted that they both flee the scene. Ms. Kaufmann complied. In the weeks following the incident, Ms. Kaufmann attempted to persuade her boyfriend that they should turn themselves in. The boyfriend threatened to harm her if she went to the police. Their relationship ended soon after the incident. For nearly two years, Ms. Kaufmann kept her vehicle hidden in a garage. With limited leads from witnesses and a poor-quality surveillance video, the case remained unsolved until Ms. Kaufmann confessed.

In this case, I contacted the detective in charge of the investigation. I explained that I was representing a woman involved in the unsolved, fatal hit-and-run that he was investigating and that she wanted to turn herself in. I negotiated the logistics of her surrender. I handled the plea negotiations, the plea hearing, and the sentencing hearing. This was a unique sentencing hearing. Ms. Kaufmann's conduct in fleeing the scene and her failure to come forward for two years were weighed against the consideration that, had she not come forward, the case would likely never have been solved. Ms. Kaufmann pled guilty to a felony hit-and-run involving death. She received a 32-month prison sentence that was imposed and stayed. She was sentenced to six months in the House of Correction with 30 days of confinement. The balance of the sentence was served under electronic surveillance.

Date of representation: 2006

Judge: Honorable Jeffrey A. Wagner, Milwaukee County Wisconsin Circuit Court

Opposing counsel:

Mark S. Williams
Milwaukee County District Attorney's Office
821 West State Street
Milwaukee, WI 53233
(414) 278-4646

9. State of Wisconsin v. Paulus, Winnebago County Case Number 2006CF000570

We represented former Winnebago County District Attorney Paulus who was involved in a scheme wherein he accepted bribes in his role as district attorney in exchange for reducing or dismissing 22 criminal traffic charges. Mr. Paulus had received \$48,000 in

bribes. He was charged with, and pleaded guilty to, misconduct in a public office and conspiracy to obstruct justice.

As the associate on the case, I was primarily responsible for research and writing memos. I also attended pre-trial hearings and plea negotiations. Mr. Paulus agreed to a plea bargain whereby he received a two-year prison sentence.

Dates of representation: 2006

Judge: Honorable Steven W. Weinke, Winnebago County Wisconsin Circuit Court.

Co-counsel:

Franklyn Gimbel
Gimbel, Reilly, Guerin & Brown, LLP
330 East Kilbourn Avenue, Suite 1170
Milwaukee, WI 53202
(414) 271-1440

Opposing counsel:

Gary A. Freyberg
Wisconsin Department of Justice
P.O. Box 7857
Madison, WI 53707
(608) 266-1221

10. Raab v. Jimenez, Ozaukee County Circuit Court Case Number 2004CV000050

This case involved a civil claim for damages arising from a sexual assault. We represented Ms. Raab, a nurse who worked for an orthopedic surgeon, Dr. Jimenez. During a conversation at work, Ms. Raab had mentioned to Dr. Jimenez that she was moving. Dr. Jimenez offered her some moving boxes that he had at his home. One evening after work, Ms. Raab, accompanied by her two young children, went to the home of Dr. Jimenez to retrieve the boxes. Dr. Jimenez put on a movie for the children. He told Ms. Raab that the boxes were upstairs and he asked her to accompany him to retrieve the boxes. Once upstairs, Dr. Jimenez began to grope and force himself upon Ms. Raab. Ms. Raab was able to pull away and leave the home with her children. She continued to work for Dr. Jimenez in the week following the assault. Dr. Jimenez acted as though the assault had not occurred. Ms. Raab's anxiety from being near Dr. Jimenez reached a point where she could no longer work with him. She reported the incident to her employer. Dr. Jimenez was not disciplined, and Ms. Raab was transferred to work for a different doctor.

I handled all aspects of the civil suit against Dr. Jimenez. I conducted the discovery prior to trial. I prepared our lay and expert witnesses. At trial, I made the opening statement.

I handled the direct examinations and cross examinations of most of the witnesses. The case was tried before a jury. The jury returned a verdict in favor of Ms. Raab in the amount of \$160,000.

Dates of representation: 2004 – 2005

Judge: Honorable Paul V. Malloy, Ozaukee County Wisconsin Circuit Court

Co-counsel:

Patrick Knight
Gimbel, Reilly, Guerin & Brown, LLP
330 E. Kilbourn Avenue, Suite 1170
Milwaukee, WI 53202
(414) 271-1440

Opposing counsel:

Robert E. Sutton (deceased)

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 legal career I have been active in the legal community both at the state and local levels. I have served as the president of the Brown County Bar Association. I was the president of the Brown County Young Lawyers Association. I was a member of the Brown County Bar Association Executive Committee for four years. I served on the Wisconsin State Bar Board of Governors for six years. During my time on the Board of Governors, I was the liaison to the Litigation Section. I have also been a member of the Wisconsin State Bar Convention Planning Committee.

In my role as president of the Brown County Bar Association, I was responsible for coordinating the Wisconsin high school mock trial regional competition in Green Bay, Wisconsin. This involved securing local lawyers and judges to volunteer their time to judge the competition. I have also volunteered as a judge of the Wisconsin high school mock trial competition.

At Habush Habush & Rottier, I have been involved in our internal continuing legal education seminars. I have presented on a variety of topics including evidence and ethics.

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.

None.

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.

None.

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).

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I would recuse myself from cases involving my firm and former clients. I would strictly follow the Code of Conduct for United States Judges, the Wisconsin Rules of Professional Conduct, and all other applicable rules and

ethical canons governing recusal.

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

I would evaluate and resolve any potential conflicts of interest by applying the rules and standards in 28 U.S.C. § 455, the Code of Conduct for United States Judges, the Published Advisory Opinions issued by the Committee on Codes of Conduct, and any relevant judicial decisions and opinions that address what constitutes a conflict or the appearance of a conflict. I also would consult, as appropriate, with other judges, the Seventh Circuit Clerk's Office, and the Seventh Circuit Executive's Office.

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.

Since 2006, I have worked for clients on a contingency fee basis. The damages and the available insurance coverage are usually unknown at the beginning of the claim. After expending significant time and resources working on these cases, we frequently discover that the client's damages exceed the available insurance coverage. In such circumstances, I have waived or substantially reduced my fee on well over 100 hours of legal services in each of the past 16 years. In addition, I regularly receive calls from people who have claims of a nature that can be resolved without the expense of an attorney. I offer those people information on their options and the process required to resolve their claim.

I am currently serving as the vice president of the board of directors for the Brain Center of Green Bay which offers no-charge consultations and other resources on matters of brain health and neurological disease. I have been providing legal advice to the organization pro bono for the last five years.

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.

On or about April 28, 2023, I submitted an application to the Bipartisan Wisconsin Federal Nominating Commission that was established by U.S. Senators Ron Johnson and Tammy Baldwin. I interviewed with the six members of the Commission on June 5, 2023. On June 8, 2023, Senator Baldwin's office informed me that the Commission had recommended me as a candidate for nomination, and I received a copy of a letter from Senators Johnson and Baldwin to President Biden in which the Senators jointly recommended me as a candidate to fill the vacancy on the U.S. District Court for the Eastern District of Wisconsin. On June 8, 2023, I spoke with attorneys from the White House Counsel's Office. On May 17, 2024, I again spoke with attorneys from the White House Counsel's Office. On May 30, 2024, the White House Counsel's Office informed me that I would be moving forward in the selection process. Since then, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 3, 2024, the President announced his intent to nominate me.

- 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.