

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Gordon Paul Gallagher

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

United States District Judge for the District of Colorado

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.

United States District Court for the District of Colorado
Wayne Aspinall Federal Building and United States Courthouse
400 Rood Avenue
Grand Junction, Colorado 81501

Gordon P. Gallagher, Attorney at Law
754 Grand Avenue
Grand Junction, Colorado 81501

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

1970; Louisville, Kentucky

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.

1993 – 1996, University of Denver College of Law; J.D., 1996

1988 – 1991, Macalester College; B.A., 1991

Fall 1990, Study abroad in Athens, Greece, College Year in Athens (an independent non-degree conferring institution); no degree received

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.

2012 – present

United States District Court for the District of Colorado
Wayne Aspinall Federal Building – United States Courthouse
400 Rood Avenue
Grand Junction, Colorado 81501
United States Magistrate Judge

2000 – present

Gordon Gallagher Attorney at Law
754 Grand Avenue
Grand Junction, Colorado 81501
Owner/Attorney/Sole Practitioner

2000 – 2012

Alternate Defense Counsel
1300 Broadway Street, Suite 330
Denver, Colorado 80203
Contract Attorney

1997 – 2000

Mesa County District Attorney's Office
21st Judicial District of Colorado
125 North Spruce Street
Grand Junction, Colorado 81501
Deputy District Attorney (1997 – 2000)
Lead County Court Prosecutor (1999 – 2000)

1995 – 1997

Underhill & Underhill, P.C.
5430 South Quebec Street, Suite 306
Greenwood Village, Colorado 80111
Associate (1996 – 1997)
Law Clerk (1995 – 1996)

1994 – 1995

Temple Sinai
3509 South Glencoe Street
Denver, Colorado 80237
Religious School Teacher

1994

Olsten Staffing Services
600 17th Street, Suite 1600

Denver, Colorado 80202
Temporary Clerical Employment

1992 – 1993

ALCO Management—formerly a division of IBM
1700 Lincoln Street # 4100

Denver, Colorado 80203

Site Supervisor (managed the in-house copy center at the law firm of Holmes, Roberts & Owens)

1988 – 1992

Kinko's Copies

2189 Snelling Avenue

Roseville, Minnesota 55113

Assistant Manager (1991 – 1992)

Shift Supervisor (1989 – 1991)

Copyist (1988 – 1989)

1989

Precise Reproductions (now defunct)

Glenwood Village, Colorado 80111

Copyist

1989

Grand Teton National Park

100 Colter Bay Village Road

Moran, Wyoming 83013

Busboy

Other Affiliations (uncompensated)

2020 – present

Riverside Educational Center

552 West Main Street

Grand Junction, Colorado 81501

Vice President of the Board (2021 – present)

Chair of the Strategic Planning Committee (2021 – present)

Board of Directors (2020 – present)

2015 – 2020

Community Food Bank of Grand Junction

562 West Crete Circle, Unit 102

Grand Junction, Colorado 81501

Board of Directors (2015 – 2020)

Secretary of the Board of Director (2016 – 2019)

1994 – 1995
Hunter's Hill HOA
7218 South Xenia Circle
Centennial, Colorado 80112
President of the Board of Directors

1994 – 1995
University of Denver College of Law
2255 East Evans Avenue
Denver, Colorado 80210
Volunteer Income Tax Assistant (VITA)

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 timely registered 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.

Mesa County Bar Association Professionalism Award (2019)

University of Denver College of Law

Member of the invitation-only moot court appellate team (1994 – 1996)

Financial scholarship of unknown name (approximately \$3000 per year) during the second and third years of law school based on my performance in the Barrister's Cup (1993 – 1996)

Quarterfinalist and runner-up for best oralist in the University of Denver Barrister's Cup appellate competition (1994)

Semi-finalist in the American Bar Association's National Appellate Advocacy Regional Competition, Los Angeles, California (1995)

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 Inns of Court Minoru Yasui Inn (2012 – present; 1996 – 1997)

President (2022 – present)

Executive Committee, Member (2019 – present)

Mentoring Committee, Co-chair (2019 – 2021)
Planning Committee, President-Elect and Chair (2021 – 2022)

Colorado Bar Association (1996 – present)
Board of Governors, Member (2019 – present)

Colorado Criminal Defense Bar (2000 – 2012)

Colorado Supreme Court Judicial Wellness Committee (2020 – 2021)

Federal Magistrate Judges Association (2012 – present)
Member of the Board of Directors holding the at-large part-time magistrate judge seat (2020 – present)
Part-time magistrate judge subcommittee, Chair (2020 – present)
Diversity and civics outreach subcommittee (2020 – present)

Judicial Review Committee for the 21st Judicial District (2008 – 2012)
Chair (2010 – 2012)

Magistrate Judges Advisory Group for the Administrative Office of the United States Courts (2014 – 2018)

Mesa County Bar Association (1997 – present)

National Association of Criminal Defense Attorneys (2000 – 2012)

Tenth Circuit Historical Society, Life Member (2012 – present)

United States District Court for the District of Colorado
Co-Chair of the *Pro Se* Prisoner Task Force (2022 – present)
Pro Se Working Group (2016 – present)
Chair (2016 – 2022)
Case Assignment Working Group (2013 – 2014)

10. **Bar and Court Admission:**

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

Colorado, 1996

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 District of Colorado, 1996

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.

Grand Valley Task Force (2020 – 2021)

Marillac Clinic Fundraising Board (2010 – 2012)

Mesa County Bowman (2009 – 2015)

Tenth Mountain Division Hut Association (2010 – 2015)

United States Triathlon Association (1999 – 2010)

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

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

12. Published Writings and Public Statements:

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

2021 Updates on Sealing Criminal Records, Colo. Law., May 2022, at 22. Copy supplied.

Sealing Criminal History Records for Convictions Under C.R.S. 24-72-701, et seq., Colo. Law., Nov. 2020, at 32. Copy supplied.

With David L. West, *The U.S. District Court for the District of Colorado Makes Operation Changes on the Western Slope*, Colo. Law., Nov. 2016, at 75. Copy supplied.

How to Obtain a Federal Defendant for State Court Proceedings, Edited Pamphlet (with assistance from the United States Attorney's Office for the District of Colorado and the United States Marshals Service), June 2016. Copy supplied.

With David L. West, *The United States District Court for the District of Colorado and Recent Western Slope Operational Changes*, Fac. Fed. Advoc., Feb. 2016. This is the same article that was later published in the Colorado Lawyer, supplied above.

With Daniel P. Rubinstein, *Exceeding Presumptive Maximum Sentences in Colorado*, Colo. Law., Dec. 2015, at 43. Copy supplied.

Civil Restraining Orders Pursuant to C.R.S. §§ 13-14-100.2 et seq.: A Practitioner's Guide, Colo. Law., Aug. 2014, at 63. 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.

2021/22 Federal Magistrate Judges Association Part-Time Committee report. Copy supplied.

2020/21 Federal Magistrate Judges Association Part-Time Committee report. Copy supplied.

- 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.

In May 2022, as a member of the Board of the Federal Magistrate Judges Association, I joined a letter in support of the Judicial Security and Privacy Act.

Copy supplied.

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

I have searched my personal files, calendar, and the internet to identify all events responsive to this question. I have located the events below, but it is possible that there are a few that I have no record of and thus was not able to identify.

September 14, 2022: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

June 15, 2022: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

April 6, 2022: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

March 10, 2022: Introductory Speaker, "Never Forget," Minoru Yasui American Inn of Court, Denver, Colorado. Remarks supplied.

October 27, 2021: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

September 29, 2021: Speaker, Introductory remarks and welcome, POWER Act, virtual event. Remarks supplied.

September 15, 2021: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

August 26, 2021: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

June 25, 2021: Roundtable Presenter, Federal Practice Update, Colorado Bar Association, Pointers for Successful Litigation in Federal Court, Magistrate Judge Roundtable, virtual event. A number of the Magistrate Judges from the District of Colorado provided comments on the topic and answered audience questions. I have no notes, transcript, or recording. The address for the Colorado Bar Association is 1290 Broadway, Suite 1700, Denver, Colorado 80203.

June 23, 2021: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

April 14, 2021: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

October 21, 2020: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

September 30, 2020: Presenter, Federal Limited Appearance Program orientation/training presented by Colorado Bar Association Young Lawyers Division. I gave short introductory remarks explaining the Federal Limited Appearance Program (FLAP) to the FLAP orientation program. I have no notes, transcript, or recording. The address for the Colorado Bar Association is 1290 Broadway, Suite 1700, Denver, Colorado 80203.

September 16, 2020: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

July 27, 2020: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

June 11, 2020: Faculty of Federal Advocates brown bag, Court update as to

COVID-19 and the Western Slope (virtual event). I gave a short update regarding the status of hearings and trials in the District Court due to COVID-19. I have no notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

May 2020 (specific date unknown): Congratulation remarks, eighth-grade graduation, Bookcliff Middle School (pre-recorded). I recorded a short video congratulating students for graduating and encouraging them to do well in their educational journey. I have no notes, transcript, or recording. The address for Bookcliff Middle School is 540 29 ¼ Road, Grand Junction, Colorado 81504.

May 12, 2020: Panelist, Discussion regarding *Co. Dept. State v. Baca*, Park Hill United Methodist Church to commemorate the first anniversary of the passing of Judge Wiley Y. Daniel (virtual event). Notes supplied.

February 26, 2020: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Fruita Monument High School, Fruita, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

February 20, 2020: Keynote Speaker, Federal Practice in Western Colorado, Do's and Don'ts of Federal Court, and the Most Missed Local Rules, Colorado Defense Bar Association (Civil), Grand Junction, Colorado. Remarks supplied.

January 22, 2020: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Fruita Monument High School, Fruita, Colorado. Remarks supplied.

December 18, 2019: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

December 2, 2019: Keynote speaker, Western Colorado Community College Peace Officers Academy graduation, Grand Junction, Colorado. Remarks supplied.

November 13, 2019: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. Remarks supplied.

November 5, 2019: Speaker, Federal Court Update, Mesa County Bar Association CLE, Grand Junction, Colorado. Remarks supplied.

October 16, 2019: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The

remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

September 18, 2019: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

August 21, 2019: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

June 12, 2019: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

May 15, 2019: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

May 3, 2019: Roundtable Presenter, Inclusivity, Equality, Equity, and Diversity, Faculty of Federal Advocates Roundtable, Denver, Colorado. This event had a judicial officer at each of approximately a dozen tables. With the assistance of a table moderator, I led several discussions tailored to various topics picked by the moderator. I have no notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

March 27, 2019: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

February 13, 2019: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

January 15, 2019: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

December 12, 2018: Presiding Judge, Naturalization Ceremony, United States

District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

November 14, 2018: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. Remarks supplied.

October 23 – 24, 2018: Speaker and panel moderator, Mesa County Bar Association, Grand Junction, Colorado. Remarks supplied.

October 18, 2018: Guest Lecturer, Colorado Mesa University, Discussion regarding the upcoming Tenth Circuit Court of Appeals visit to Grand Junction, Grand Junction, Colorado. In advance of the Tenth Circuit Court of Appeals sessions at Colorado Mesa University, I provided students a preview of the three cases on the docket. I have no notes, transcript, or recording. The address for Colorado Mesa University is 1100 North Avenue, Grand Junction, Colorado 81501.

October 17, 2018: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

October 4, 2018: Keynote Speaker, 100th Anniversary of the Wayne Aspinall Federal Building and United States Courthouse, Grand Junction, Colorado. Remarks supplied.

September 19, 2018: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

July 11, 2018: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

June 22, 2018: Panelist, "Federal Practice Update, Practice Pointers from the Magistrate Judges," Colorado Bar Association, Denver, Colorado. We provided practice pointers as to federal practice in the District, and discussed local rules and answered audience questions. I have no notes, transcript, or recording. The address for the Colorado Bar Association is 1290 Broadway, Suite 1700, Denver, Colorado 80203.

June 20, 2018: Presiding Judge, Naturalization Ceremony, United States District

Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

May 16, 2018: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

April 20, 2018: Roundtable Presenter, Faculty of Federal Advocates Roundtable, Denver, Colorado. This event had a judicial officer at each of approximately a dozen tables. With the assistance of a table moderator, I led several discussions tailored to various topics picked by the moderator. I have no notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

April 18, 2018: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

March 28, 2018: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

March 2, 2018: Presiding Mock Judge, Faculty of Federal Advocates 2018 trial advocacy workshop, Denver, Colorado. I presided over a mock trial in this two-part FFA workshop and provided feedback. I have no notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

February 21, 2018: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

January 28, 2018: Panelist, Colorado Mesa University, Criminal Justice Major Capstone Seminar, current topics and ethics in criminal justice, Grand Junction, Colorado. I participated in this panel on various law enforcement career choices with students majoring in criminal justice. I have no notes, transcript, or recording. The address for Colorado Mesa University is 1100 North Avenue, Grand Junction, Colorado 81501.

January 24, 2018: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The

remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

December 20, 2017: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

November 15, 2017: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

November 1, 2017: Guest lecturer, Colorado Mesa University, Media Law and Ethics, Importance of Ethics in Criminal Justice, Grand Junction, Colorado. I provided a one-hour lecture, mostly in question-and-answer format, for business law students in this class. I have no notes, transcript, or recording. The address for Colorado Mesa University is 1100 North Avenue, Grand Junction, Colorado 81501.

October 18, 2017: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

September 20, 2017: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

June 21, 2017: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

June 16, 2017: Panelist, Perspectives from the Bench, Faculty of Federal Advocates, Grand Junction with video to Denver, Colorado. Remarks supplied.

May 24, 2017: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

April 19, 2017: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization

Ceremony, for which remarks are supplied.

March 27, 2017: Keynote Speaker, Federal Court Update, CLE Speech to the Mesa County Bar Lunch, Grand Junction, Colorado. Remarks supplied.

February 15, 2017: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

December 14, 2016: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

October 13, 2016: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

September 14, 2016: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

August 17, 2016: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

June 15, 2016: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

May 18, 2016: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

May 4, 2016: Speaker, Role of U.S. Magistrate Judge, Kiwanis Club, Grand Junction, Colorado. I gave remarks to the Kiwanis Club membership as to the role of the federal courts, with specific emphasis on the Western Slope, and the role of the U.S. Magistrate Judge within the federal judicial system. I have no notes, transcript, or recording. The address for the Kiwanis Club of Grand Junction is P.O. Box 1377, Grand Junction, Colorado 81502.

April 20, 2016: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

April 8, 2016: Roundtable Presenter, Faculty of Federal Advocates Roundtable, Denver, Colorado. This event had a judicial officer at each of approximately a dozen tables. With the assistance of a table moderator, I led several discussions tailored to various topics picked by the moderator. I have no notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

March 16, 2016: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

March 4, 2016: Presiding Mock Judge, Faculty of Federal Advocates (FFA) 2016 Trial Advocacy Workshop, Denver, Colorado. I presided over a mock trial in this two-part FFA workshop and provided feedback to participants. I have no notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

February 17, 2016: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

January 20, 2016: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

January 5, 2016: Speaker, CLE Speech to the Mesa County Bar Lunch, Annual Federal Update with Chief Judge Krieger, Grand Junction, Colorado. I gave remarks to the Mesa County Bar Association membership as to the current state of the federal court vis-à-vis the Western Slope, particularly as to the Western Slope Protocol for criminal cases and identification of civil actions as Western Slope matters. I have no notes, transcript, or recording. The Mesa County Bar does not have a physical address.

December 16, 2015: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

November 18, 2015: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

October 14, 2015: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

October 2, 2015: Roundtable, Presenter, Faculty of Federal Advocates Roundtable, Life and the Law, Denver, Colorado. This event had a judicial officer at each of approximately a dozen tables. With the assistance of a table moderator, I led several discussions tailored to various topics picked by the moderator. I have no notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

September 16, 2015: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

September 15, 2015: Presiding Mock Judge, Community Hospital EMT/ First Responder Training, Moot Court Unit on Cross-Examination and Report Writing, Grand Junction, Colorado. I presided over mock witness examinations for EMT students with a focus on proper report writing as an aid to effective testimony. I have no notes, transcript, or recording. The address for Community Hospital is 2351 G Road, Grand Junction, Colorado 81505.

June 17, 2015: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

May 13, 2015: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

April 15, 2015: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

March 11, 2015: Presiding Judge, Naturalization Ceremony, United States District

Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

February 11, 2015: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

February 9, 2015: Guest Speaker, Western Slope Community College Post-certification Law Enforcement Class, Tips Regarding Examination of Witnesses, Grand Junction, Colorado. Remarks to the law enforcement training class on proper report writing and tips as to effective witness examination. I have no notes, transcript, or recording. The address for Western Slope Community College is 2508 Blichmann Avenue, Grand Junction, Colorado 81505.

February 3, 2015: Guest Lecturer, Colorado Mesa University Constitutional Law, *Marbury v. Madison* and the Separation of Powers, Grand Junction, Colorado. I spoke to university students regarding the separation of powers. I have no notes, transcript, or recording. The address for Colorado Mesa University is 1100 North Avenue, Grand Junction, Colorado 81501.

January 14, 2015: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

December 17, 2014: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

October 22, 2014: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

September 20, 2014: Roundtable Presenter, Faculty of Federal Advocates Roundtable, Denver, Colorado. This event had a judicial officer at each of approximately a dozen tables. With the assistance of a table moderator, I led several discussions tailored to various topics picked by the moderator. I have no notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

September 10, 2014: Presenter, Colorado Courts in the Community, criminal case presenter, Grand Junction, Colorado. On an annual basis, the Colorado Supreme

Court and Court of Appeals hear cases at several schools around Colorado, and I provided training to teachers, which they were to pass on to their students, as to the cases that would be heard before the student body. I have no notes, transcript, or recording. The Colorado Courts in the Community is a program of the Colorado Supreme and Appellate Courts which has the address of 1300 Broadway, Denver, Colorado 80203.

September 9, 2014: Guest lecturer, Colorado Mesa University, Constitutional Law and Separation of Powers, Grand Junction. I spoke to university students about constitutional law and separation of powers. I have no notes, transcript, or recording. The address for Colorado Mesa University is 1100 North Avenue, Grand Junction, Colorado 81501.

June 20, 2014: Panel Member, Faculty of Federal Advocates Federal Practice Update, Magistrate Judge Panel Discussion, Denver, Colorado. A number of the magistrate judges from the District of Colorado provided comments on the topic and answered audience questions. I have no notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

June 6, 2014: Speaker, Colorado County Attorney Association Summer Conference, Social Media, and Electronic Discovery Update, Steamboat Springs, Colorado. I spoke to conference attendees about the state of discovery in the fast-changing area of social media and electronic discovery. I have no notes, transcript, or recording. The Colorado County Attorney's Association has no physical or mailing address.

May 21, 2014: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

April 16, 2014: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

March 19, 2014: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

March 13, 2014: Guest Lecturer, Colorado Mesa University Constitutional Law and Freedom of Speech, Grand Junction, Colorado. Remarks to university students regarding freedom of speech. I have no notes, transcript, or recording. The address for Colorado Mesa University is 1100 North Avenue, Grand

Junction, Colorado 81501.

February 19, 2014: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

January 22, 2014: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

November 14, 2013: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

October 16, 2013: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

October 10, 2013: Guest lecturer, Colorado Mesa University, Constitutional Law and Right of Association, Grand Junction, Colorado. I spoke to university students regarding the right of association. I have no notes, transcript, or recording. The address for Colorado Mesa University is 1100 North Avenue, Grand Junction, Colorado 81501.

July 17, 2013: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

June 12, 2013: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

May 8, 2013: Presiding Judge, Naturalization Ceremonies, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

April 10, 2013: Presiding Judge, Naturalization Ceremonies, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012,

Naturalization Ceremony, for which remarks are supplied.

March 27, 2013: Roundtable Presenter, Faculty of Federal Advocates USMJ Roundtable, DU Law, Meeting with the Magistrate Judge, Denver, Colorado. I spoke on a panel of magistrate judges about the federal courts. I have no notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

March 2013: Guest Lecturer, Colorado Mesa University, undergraduate law class, Grand Junction, Colorado. I gave remarks to university students, but do not recall the precise topic. I have no notes, transcript, or recording. The address for Colorado Mesa University is 1100 North Avenue, Grand Junction, Colorado 81501.

March 20, 2013: CLE speech to the Mesa County Bar Lunch, How Are Judges Like Frogs?, Grand Junction, Colorado. Remarks supplied.

March 13, 2013: Presiding Judge, Naturalization Ceremonies, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

February 6, 2013: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

January 16, 2013: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

December 12, 2012: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

November 14, 2012; two (2) ceremonies: Presiding Judge, Naturalization Ceremony, United States District Court for the District of Colorado, Grand Junction, Colorado. The remarks I used were substantially the same as those for the October 18, 2012, Naturalization Ceremony, for which remarks are supplied.

October 20, 2012: Roundtable Presenter, Faculty of Federal Advocates Roundtable, Denver, Colorado. This event had a judicial officer at each of approximately a dozen tables. With the assistance of a table moderator, I led several discussions tailored to various topics picked by the moderator. I have no

notes, transcript, or recording. The address for the Faculty of Federal Advocates is 3700 Quebec Street #100-389, Denver, Colorado 80207.

October 18, 2012: Presiding Judge, Naturalization Ceremonies, United States District Court for the District of Colorado, Grand Junction, Colorado. Remarks 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.

Dennis Webb, *Gallagher Passed Over for District Judge Nomination*, GRAND JUNCTION DAILY SENTINEL (Jan. 20, 2022). Copy supplied.

Sabra Janko, *Colorado's Federal Pro Se Clinic – First Steps*, THE FED. LAW. (Jan./Feb. 2019). Copy supplied.

Judiciary Celebrates Magistrate Judges' 50 Years of Vital Contributions, Administrative Office of the United States Courts, Office of Public Affairs, Oct. 2018. Video available at <https://www.uscourts.gov/news/2018/10/29/judiciary-celebrates-magistrate-judges-50-years-vital-contributions>.

Magistrate Judges: The Merit Selection Process, Administrative Office of the United States Courts, Office of Public Affairs, July 2018. Video available at <https://www.uscourts.gov/news/2019/07/18/panels-focus-merit-selection-magistrate-judges>.

Dan Shaffer, *Balancing Unique Part-Time Judge and Attorney Roles in Grand Junction*, FAC. FED. ADVOC. (Oct. 2017). Copy supplied.

Editorial, *Welcome Changes in Federal Court Cases*, GRAND JUNCTION DAILY SENTINEL (Jan. 31, 2016). Copy supplied.

Paul Shockley, *Trooper's 'Bias' Complicates DUI Cases*, GRAND JUNCTION DAILY SENTINEL (Dec. 8, 2011). Copy supplied.

Report: Teen Mom Charged with Murder Invoked Her Privacy Law, THE ASSOCIATED PRESS STATE & LOCAL WIRE (July 28, 2006). Copy supplied.

Ellen Miller, *Demoted Trooper Quits*, ROCKY MOUNTAIN NEWS (Dec. 2, 2005). Copy supplied.

Mike Wiggins & Michael Bender, *Questions of Ethical Propriety Arise Over Bryant's Defense*, COX NEWS SERVICE (Oct. 10, 2003). 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.

Since October 10, 2012, I have served as United States Magistrate Judge for the United States District Court for the District of Colorado. I was appointed by the United States District Court for the District of Colorado, and reappointed in 2016 and 2020. I was recommended by the statutorily required selection panel and unanimously appointed by the District Court. As a magistrate judge, my jurisdiction is governed by 28 U.S.C. § 636.

While I have jurisdiction within the entire District, my duty station is in Grand Junction, and the area I preside over roughly covers east to west from the Continental Divide to Utah and north to south from Wyoming to Ouray. In addition, I substitute frequently for the magistrate judge in Durango, which duty station often addresses laws and attendant issues regarding the two Indian Tribes with Reservation Land in Colorado and issues unique to the Four-Corners area. As a result of numerous recusals, I preside over a significant number of supervised release violation matters arising from both the Ute Mountain Ute Reservation and the Southern Ute Reservation. At times, I preside in Denver or other locations in Colorado. On one occasion, I have been granted extra-territorial jurisdiction by the Department of Justice and my Chief Judge to handle an international prisoner transport in Trinidad and Tobago.

I am involved in federal cases in a variety of fashions—my duties differ from those of full-time magistrate judges. As the magistrate judge assigned to Grand Junction, I have the primary responsibility for all petty offense and misdemeanor actions arising from federal lands in this portion of the state. The court over which I preside handles approximately 450 such actions per year. Since 2015, due to the operation of the Western Slope protocol, I have also handled significant portions (except for trial and sentencing) of most felony criminal matters arising from the Western Slope/Jury Division 3 area – approximately the northwest quarter of Colorado. My involvement in these matters includes everything from the inception of the criminal action (indictment, detention, arraignment, and trial setting) through substantive motions (on recommendation) to and including changes of pleas as well as post-conviction supervised release violation matters. Concerning most criminal actions emanating from the Western Slope protocol, the only involvement of the District Judge is for sentencing and jury trial for the limited number of defendants who proceed to trial. My criminal responsibilities also include reviewing and approving warrant applications and other miscellaneous filings.

On the civil side, by statute, a part-time magistrate judge may not be directly assigned a civil action in a presiding role, e.g., on the wheel, but may receive consent to preside over such an action in a different fashion. The consent process for a part-time magistrate judge—although specifically authorized by the Tenth Circuit—is rarely utilized. I have presided over 6 matters in that fashion. I have not had final responsibility for the judgment as to the remainder of the civil matters, although I am frequently referred

motions to dismiss and motions for summary judgment for recommendation. In addition, in the referral role, I generally have responsibility for discovery, settlement conferences, case planning, and non-dispositive issues.

Since 2014, I have been the supervisor of the *pro se* intake division for the District of Colorado. The *pro se* intake division is comprised of eight permanent law clerks across six positions who review all *pro se* prisoner cases and all *pro se in forma pauperis* (IFP) actions for non-prisoners. The intake division handles a significant number of cases per year, the largest single component of the District of Colorado's civil docket. I personally review all substantive orders to amend or cure initial filings, orders to deny IFP status (on recommendation), and orders to dismiss or partially dismiss (on recommendation). I draw all matters to the Court as a whole (except for partial dismissals, which are drawn within such order). I preside over each of these matters until a recommendation to dismiss or partially dismiss is issued or until the matter is randomly drawn onto the Court's docket. Annually, approximately 75 percent of these matters are resolved, in whole or in part, upon recommendations issued during the time I preside over the action. During the spring of 2020, I was responsible for significant changes to the review process in order to address the urgent and essentially injunctive nature of prisoner requests in COVID-19-related actions.

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

I have presided over approximately a dozen criminal misdemeanor and/or petty offense matters to verdict—all as bench trials. Additionally, I presided over a civil jury trial that settled on the second day of a four-day trial.

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

jury trials:	0%
bench trials:	100%

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

civil proceedings:	0%
criminal proceedings:	100%

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

See attached list of opinions.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature 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).

1. *United States v. Lesh*, No. 20-PO-07016-GPG, 2021 WL 4941013 (D. Colo. Oct. 22, 2021).

Defendant was charged by Superseding Information with two counts: (1) on or about April 24, 2020, operation of a snowmobile off a designated route upon lands administered by the United States Forest Service, in violation of 36 C.F.R. § 261.14; and (2) on or about April 24, 2020, through October 21, 2020, selling or offering for sale any merchandise or conducting any kind of work activity or service without authorization upon lands administered by the United States Forest Service, in violation of 36 C.F.R. § 261.10(c). I presided over this matter from inception through sentencing. After a bench trial, I found the Defendant guilty of both counts. Defendant has appealed to the District Court.

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1801 California Street
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Defendant's Counsel:
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900 Arapahoe Avenue
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Jenin M. Younes
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Trial Counsel:

Eric James Faddis
Varner Faddis Elite Legal PLLC
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Centennial, CO 80111
(720) 770-8335

2. *Waldschmidt v. Union Pac. R.R. Co.*, No. 20-CV-03808-RM-GPG, 2021 WL 5547625 (D. Colo. Aug. 25, 2021).

Plaintiff filed a First Amended Class Action Complaint alleging that Defendant's hearing exam and hearing-protection rules facially discriminate, in violation of the Americans with Disability Act (ADA), against hearing-impaired employees. Plaintiff raised one cause of action: violation of 42 U.S.C. § 12101, *et seq.*, which was brought on behalf of himself and a defined class of similarly situated individuals. Plaintiff asserted that his employer discriminated against him and a similarly situated class of hearing-impaired individuals by imposing unnecessary hearing test requirements, not allowing reasonable hearing amplification equipment, and ultimately discharging or suspending hearing impaired employees. I recommended that the motion to partially dismiss be granted with regard to certain class claims that had not been preserved, and the Report and Recommendation was adopted by the District Court. The case is ongoing.

Plaintiff's Counsel:

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Defendant's Counsel:

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3. *Bennington v. Stryker Corp.*, No. 20-CV-01211-CMA-GPG.

Plaintiff sued defendant medical product manufacturer for product liability after undergoing a total hip arthroplasty of the right hip in August 2008. Plaintiff raised four claims for relief: (1) strict liability against Defendant Stryker; (2) negligence against Defendant Stryker; (3) breach of warranties against Defendant Stryker; and (4) violation of the Colorado Consumer Protection Act (CCPA) against Defendant Stryker. Defendants moved to dismiss and argued that Plaintiff's claims were expressly preempted because the claims were based on the alleged failure of a § 510(k)-cleared device in combination with a Pre-Market Approved (PMA) device. I recommended that the motion to dismiss be denied, which was adopted by the District Court. I recommended denial on the basis that a colorable claim had been plead regarding lack of FDA preemption. Report and Recommendation supplied. The case is ongoing.

Plaintiff's Counsel:

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Anne Marie Dieruf
Jordan Herington & Rowley
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Suite 1000
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(303) 766-8153

Defendants' Counsel:

Kevin G. Walton
Snell & Wilmer LLP
1200 17th Street
One Tabor Center
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Vaughn A. Crawford
Snell & Wilmer LLP
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4. *RMR Industrials, Inc. v. Garfield Cty.*, No. 19-CV-01445-RBJ-GPG, 2019

WL 10250745 (D. Colo. Sept. 29, 2019), *R & R adopted*, No. 19-CV-01445-RBJ-SKC, 2019 WL 10250744 (D. Colo. Nov. 29, 2019).

Plaintiff sought declaratory and injunctive relief against Garfield County regarding a violation notice issued by the County that conflicted with the contours of a Bureau of Land Management mining permit. Garfield County was seeking to limit the level and type of extractions from a mine near Glenwood Springs, Colorado. Garfield County filed a cease-and-desist order against RMR Industrials as to RMR's plan to expand from limestone mining to potential dolomite extraction and as to RMR's assertion of the acreage from which it could extract. I found it appropriate to stay the matter and allow parallel litigation to proceed in Colorado State Courts, which was filed a few days before the matter was filed in federal court. The Plaintiff had strategically determined to file a proceeding in state court and then later file this action in Federal Court. Based on the timing of the filings and various abstention doctrines, I determined that matter should be initially heard in state court. Under State Court Rule 106, Colorado courts may determine whether a governmental body has exceeded its jurisdiction or abused its discretion. The matter was ultimately dismissed after the recommendation to dismiss or stay was adopted and the matter was stayed and administratively closed.

Plaintiff's Counsel:

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(970) 925-1936

Defendant's Counsel:

Kathleen K. Custer
Timothy R. Macdonald
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5. *United States v. Holder*, No. 18-CR-381-MSK-GPG, 2019 WL 7047332 (D. Colo. Dec. 20, 2019).

Six Defendants were indicted for distribution of fentanyl resulting in death relating to a significant Western Slope fentanyl distribution ring. The substance involved was fentanyl, falsely stamped or marked as a prescription medication. As a result of consuming the substance, several individuals died. Significant substantive motions were litigated before me in the matter, with consent and as

authorized by the Western Slope Protocol.

My recommendation to deny Defendant Holder's motion to suppress was adopted by the district court. Defendant had challenged the scope of the search of his home and an iPad. Following denial of the motion, Holder was convicted at trial and is awaiting sentencing. All other defendants entered various guilty pleas before me and have been sentenced by the district judge to sentences ranging from time served followed by three years of supervised release to 40 months.

Government Counsel:

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Defendant L. Holder's Counsel:

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Defendant C. Holder's Counsel:

Jason Robert Conley
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405 Ridges Boulevard, Suite B
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Defendant Bochman's Counsel:

John S. Tatum
John S. Tatum, P.C.
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Defendant Brady's Counsel:

Clifford J. Barnard
Clifford J. Barnard, Attorney at Law
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Defendant Matos's Counsel:

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1775 Sherman Street, Suite 1650
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(303) 820-4420

6. *Mewhinney v. Delta County Memorial Hospital*, 18-CV-296-GPG.

With the consent of the parties, I presided over all pre-trial matters in this medical malpractice case. Plaintiff sued Delta County Memorial Hospital and various medical professionals on behalf of his deceased wife, himself, and their children. Mrs. Mewhinney had been admitted to the hospital for a severe headache and was later released to return home. Shortly after returning home, she suffered a hemorrhage, was returned to the hospital, and subsequently died. Plaintiff claimed negligence and a violation of the Emergency Medical Treatment and Active Labor Act (EMTALA). The matter ultimately settled.

Plaintiff's Counsel:

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Defendants Dr. Malito and Delta County Emergency Physician, LLC's Counsel:

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Defendant Delta County Memorial Hospital's Counsel:

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7. *McFadden v. Meeker Housing Authority*, 16-CV-2304-WJM-GPG.

Plaintiffs filed suit for various violations of the Federal Fair Housing Act for discrimination and retaliation against them when Defendants refused to accommodate their disabilities and requests for accommodation relating to leasing of apartments. Plaintiffs claimed discrimination due to their need for therapy pets and other issues.

I presided over contentious discovery, including multiple motions for sanctions and violations, which ultimately resulted in sanctions against a party and prior counsel. The matter settled.

Primary Plaintiffs' Counsel:

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Defendant Town of Meeker's Counsel:

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8. *RCHFU, LLC v. Marriott Vacations Worldwide Corporation*, 16-CV-1301-PAB-GPG.

The plaintiffs, time share owners of the Ritz Carlton, filed suit after the defendants supposedly decreased the value of their investments by allowing Marriot points users the same time share access as that provided to those who purchased at the premium rate. Plaintiffs' claims included multiple theories of breach of fiduciary duty and conspiracy.

The matter involved millions of pages of discovery, thousands of review hours, and significant issues related to computer assisted review, and search terms for such review. Following discovery, the district judge granted defendants' motion for summary judgment.

Primary Plaintiffs' Counsel:

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Matthew C. Ferguson Law Firm, P.C.
119 South Spring Street, Suite 201
Aspen, CO 81611
(970) 925-6288

Michael Joseph Reiser, Sr.
Reiser Law P.C.
1475 North Broadway, Suite 300
Walnut Creek, CA 94596
(925) 256-0400

Tyler Roberts Meade
Meade Firm, P.C.
12 Funston Avenue, Suite A
San Francisco, CA 94129
(415) 724-9600

Primary Counsel for Marriott:

David L. Masters
Masters Law Firm PC
152 Colorado Avenue
Montrose, CO 81401

(970) 249-2622

Ian Scott Marx
Philip Rabner Sellinger
Greenberg Traurig LLP-Florham Park
500 Campus Drive, Suite 400
Florham Park, NJ 07932
(973) 360-7900

Primary Counsel for Aspen Highlands Condominium Association:

Jessica Black Livingston
Hogan Lovells US LLP-Denver
1601 Wewatta Street, Suite 900
Denver, CO 80202
(303) 899-7300

9. *U.S. Commodity Futures Trading Comm'n v. Gramalegui*, No. 15-CV-02313-REB-GPG, 2016 WL 4479316 (D. Colo. July 28, 2016).

The CFTC accused the defendant of multiple violations of the commodity exchange act. Defendant had previously entered into a consent decree with the CFTC. The CFTC asserted that Defendant violated that decree by trading for others under the guise of running a trading school. The matter was resolved by way of a bench trial before the district judge with a verdict in favor of the CFTC. I presided over all pretrial proceedings, included issuing a recommendation to grant the CFTC's motion for partial summary judgment after many years of discovery and other disputes. The court upheld my recommendation as to summary judgment, in large part, and sustained objections for a minor issue.

Plaintiff's Counsel:

Laura Elizabeth Brookover
Commodity Futures Trading Commission
21st Street, Northwest
Washington, DC 20581
(202) 418-5459

Defendant's Counsel:

Martin Melville Berliner
Berliner McDonald, P.C.,
6160 South Syracuse Way, Suite 100
Greenwood Village, Colorado 80111
(303) 830-1700

10. *U.S. v. Simms*, No. 15-CR-80-MSK-GPG (D. Colo. 2015).

Multiple defendants were charged with violations of the Lacey Act for conspiring

to illegally hunt mountain lions and bobcats for profit in both Utah and Colorado from 2007 to 2010. Defendants would tree and capture the animals, cage them, and then release them on subsequent days in a manner that would allow paying clients to more easily find and kill them. I presided, with consent under the Western Slope Protocol, over all cases related to the conspiracy.

My recommendation to deny Defendant Simms' motion to dismiss was adopted by the district court. Copy supplied. Defendant had challenged the government's ability to proceed with the action, asserting that the conspiracy had concluded more than five years before the charges were brought, i.e. outside the statute of limitations, and that in any event he had withdrawn from the conspiracy. I determined that, at the pleading stage, the government had sufficiently charged and provided discovery as to the dates of the conspiracy such that a jury could find defendant's actions to have occurred within the charged or discovered dates, and that whether defendant withdrew from the conspiracy was a factual matter more properly considered by the jury. Following denial of the motion to dismiss and adoption of my recommendation, Mr. Simms entered a guilty plea. All defendants in the conspiracy entered guilty pleas before me and were sentenced by the district judge to sentences ranging from probation to 27 months in prison.

Government Counsel:

Mark Ted Romley
U.S. Department of Justice
999 18th Street, Suite 370
Denver, CO 80202
(202) 532-3110

Defendant's Counsel:

Stephan Bryan Schweissing
319 Colorado Avenue
Grand Junction, CO 81501
(970) 462-7656

- 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. *Flaherty as Tr. For Dennis Flaherty Irrevocable Tr. Dated 06/19/2002 v. Banner Life Ins. Co.*, No. 20-CV-00581-REB-GPG, 2021 WL 7368210 (D. Colo. Aug. 3, 2021).

Plaintiff's Counsel:

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Brownlee & Associates, LLC
P.O. Box 1658

70 Benchmark Road
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Avon, CO 81620
(970) 444-5570

Defendant's Counsel:

Christopher F. Petillo
Katherine Leigh Villanueva
Timothy J. O'Driscoll
Andrew John Ball
Faegre Drinker Biddle & Reath LLP-Philadelphia
One Logan Square
Suite 2000
Philadelphia, PA 19103
(215) 988-2700

2. *McCluskey v. United States Forest Service*, 19-cv-03019-WJM-GPG; D. 124.
Copy supplied.

Plaintiff proceeded *pro se*

Defendant's Counsel:

John Pershing Tustin
U.S. Department of Justice
Environment and Natural Resources Division
Ben Franklin Station
P.O. Box 7611
Washington, DC 20044
(202) 305-3022

3. *G.A. Resort Condo. Ass'n, Inc. v. ILG, LLC*, No. 19-CV-01870-RM-GPG, 2020 WL 5536361 (D. Colo. July 2, 2020), *R & R adopted*, No. 1:19-CV-01870-RM-GPG, 2020 WL 4364207 (D. Colo. July 30, 2020); *G.A. Resort Condo. Ass'n, Inc. v. Chicago Title Timeshare Land Tr., Inc.*, No. 19-CV-01870-RM-GPG, 2020 WL 5815029 (D. Colo. Sept. 14, 2020), *R & R adopted*, No. 19-CV-01870-RM-GPG, 2020 WL 7022354 (D. Colo. Nov. 30, 2020), *appeal dismissed*, No. 20-1431, 2021 WL 6197395 (10th Cir. Nov. 29, 2021).

Plaintiffs' Counsel:

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(925) 256-0400

Defendants' Counsel:

Ian Scott Marx
Philip Rabner Sellinger
Greenberg Traurig LLP-Florham Park
500 Campus Drive, Suite 400
Florham Park, NJ 07932
(973) 360-7900

4. *Anderson v. Colorado Mountain News Media Co.*, No. 18-CV-02934-CMA-GPG, 2019 WL 3321843 (D. Colo. May 20, 2019), *R & R adopted*, No. 18-CV-02934-CMA-STV, 2019 WL 6888275 (D. Colo. Dec. 18, 2019)

Plaintiff's Counsel:

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(305) 460-4091

Defendants' Counsel:

Steven David Zansberg
Ballard Spahr LLP-Denver
1225 Seventeenth Street, Suite 2300
Denver, CO 80202
(303) 376-2409

5. *Latham v. High Mesa Commc 'ns*, No. 17-CV-2118-JLK-GPG, 2019 WL 8267700 (D. Colo. Dec. 19, 2019), *R & R adopted*, No. 17-CV-02118-JLK-GPG, 2020 WL 1317394 (D. Colo. Jan. 14, 2020); 2020 WL 1317421 (D. Colo. Jan. 13, 2020), *R & R adopted*, No. 17-CV-02118-JLK-GPG, 2020 WL 1626976 (D. Colo. Feb. 7, 2020)

Plaintiffs' Counsel:

Damon Davis
Killian Davis Richter & Mayle, P.C.
202 North 7th Street
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(970) 241-0707

Defendants' Counsel:

Alicia Williams Severn
Michael Craig Santo
Bechtel Santo & Severn
205 North 4th Street, Suite 300
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(970) 683-5888

6. *Robinson v. Oil Shale Corp.*, No. 17-CV-1373-CMA-GPG, 2018 WL 1452498 (D. Colo. Jan. 16, 2018), *R & R adopted*, No. 17-CV-01373-CMA-GPG, 2018 WL 1116664 (D. Colo. Mar. 1, 2018).

Plaintiff's Counsel:

David H. McConaughy
Garfield & Hecht PC-Glenwood Springs
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Glenwood Springs, CO 81601
(970) 947-1936

Defendant The Oil Shale Company's Counsel:

Christopher Anthony Chrisman
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555 17th Street, Suite 3200
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(303) 295-8013

Defendant XTO's Counsel:

William E. Sparks
Beatty & Wozniak, P.C.
216 16th Street
Columbine Place, Suite 1100
Denver, CO 80202
(303) 407-4499

7. *Renfandt v. New York Life Ins. Co.*, No. 16-CV-1812-MSK-GPG, 2017 WL 11546029 (D. Colo. Jan. 19, 2017).

Plaintiff's Counsel:

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(303) 534-0401

Defendant's Counsel:

Gillian Dale

Kevin O'Brien
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1001 Seventeenth Street, Suite 300
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(303) 628-3328

8. *Sports Rehab Consulting LLC v. Vail Clinic, Inc.*, No. 19-CV-02075-WJM-GPG, 2021 WL 5508386, (D. Colo. June 6, 2021), *aff'd*, No. 19-CV-2075-WJM-GPG, 2021 WL 2660030 (D. Colo. June 29, 2021).

Plaintiffs' Counsel:

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Additional counsel:

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Daniel Alexander Richards
Jacqueline Ventre Roeder
Janet Ann Savage
Shannon Wells Stevenson
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(303) 892-7452

9. *Scott v. Scott*, 15-CV-2786-GPG, Dkt. Nos. 36, 37 (D. Colo. [May 11, 2016]).
Orders supplied.

Plaintiff's Counsel:

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Reams & Reams
222 North 7th Street
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(970) 242-7847

Defendant's Counsel:

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Loretta Cahill
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Grand Junction, CO 81502
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10. *United States v. Baird*, Violation No. L0115009. Order supplied.

Plaintiff's Counsel:

Michelle Heldmeyer
Federal Law Enforcement Training Center
1300 West Richey Avenue
Artesia, NM 88210
(575) 748-8000

Defendant proceeded *pro se*

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

Lomax v. Ortiz-Marquez, 18-cv-00321-LTB (D. Colo, June 4, 2018), 754 F. App'x 756 (10th Cir. 2018), 140 S. Ct. 1721, 1727 (2020). Copy supplied.

- 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.

Williams v. Colorado Department of Corrections, 2022 WL 318311 (D. Colo. January 6, 2022), No. 22-1033, 2022 WL 3681255 (10th Cir. Aug. 25, 2022). I recommended dismissal of this action on the basis that Plaintiff's claim was frivolous. The District Court adopted the recommendation. The Tenth Circuit reversed and remanded with instructions to analyze plaintiff's claim to determine whether a causation flaw existed which would render the claim meritless.

Handy v. Maximus Inc. et al., 2021 WL 2134386 (D. Colo. March 3, 2021), No. 21-1192, 2022 WL 405460 (10th Cir. Feb. 10, 2022). I recommended dismissal of this action on the basis that Plaintiff had failed to adequately comply with an

order to amend her complaint. The district court adopted the recommendation. The Tenth Circuit reversed and remanded with instructions to reevaluate the complaint.

Festini-Steele v. ExxonMobil Corp., 2019 WL 5095695 (D. Colo. 2019), 2019 WL 6242809 (D. Colo. 2019), No. 20-1052, 2021 WL 629755 (10th Cir. Feb. 18, 2021). I recommended dismissing this action on the basis that the separation agreement in a dissolution of marriage action did not meet the definition of a qualified domestic relations order (QDRO). The district judge adopted the recommendation in full. The Tenth Circuit, reviewing *de novo*, determined that the agreement was a QDRO and reversed and remanded.

Estate of George v. City of Rifle, No. 20-cv-00522-CMA-GPG. The district court accepted in part and rejected in part the report and recommendation wherein I recommended, inter alia, dismissing the municipal liability claims in this excessive force case. The court determined that the plaintiffs should have the benefit of discovery to further establish a plausible claim for municipal liability. Copies supplied.

St. Paul Fire & Marine Ins. Co. v. Jones, No. 20-CV-00389-WJM-GPG, 2021 WL 5415869 (D. Colo. Nov. 19, 2021). This is an insurance coverage dispute seeking declaratory judgment as to coverage in a parallel state proceeding. I granted the defendant's motion for a stay and the Court lifted the stay after determining that the *Mhoon* factors weighed against granting a stay. Copy supplied.

Wehr v. U.S. Bank, Nat'l Ass'n, 2019 WL 8750265 (D. Colo. September 23, 2019), , 2020 WL 1242945 (D. Colo. Mar. 16, 2020). The Court accepted in part and rejected in part my recommendation to dismiss a portion of the claims and deny the motion to dismiss regarding four of the claims raised by a *pro se* plaintiff. The court declined to remand the claims to the state court, as I had recommended, and instead dismissed the claims without prejudice.

Perkins v. Suzuki Motor Corp., 2019 WL 13104644 (D. Colo. April 28, 2019), 2021 WL 5629067 (D. Colo. Feb. 19, 2021). I granted the plaintiff's motion to compel. The defendant filed a new declaration and exhibits after the order was issued. I declined to reconsider the order based on the untimely submission of new evidence. The court reviewed the new evidence and sustained the defendant's objections.

Robinson v. Oil Shale Corp., 2018 WL 510278 (D. Colo. January 23, 2018), 2018 WL 1256512 (D. Colo. Mar. 12, 2018). I recommended denying in part Defendant The Oil Shale Corporation's (TOSCO) motion to dismiss. The district judge sustained objections to that recommendation by Defendant TOSCO and dismissed the matter for failure to state a claim. The District Court adopted the recommendation granting co-Defendant XTO's motion to dismiss for failure to

state a claim.

United States v. Beider, 17-CR-152-MSK-GPG. I recommended from the bench that defendant's motion to suppress be denied and was overruled by the district judge on defendant's objection. The district judge found that the arresting officer did not have reasonable suspicion to support the traffic stop or subsequent investigation and therefore granted the motion.

Farris v. Ohio Sec. Ins. Co., 2016 WL 7338033 (D. Colo. December 19, 2016), 2017 WL 1390670 (D. Colo. Mar. 28, 2017). The court declined to adopt my report and recommendations granting the defendant's motion for summary judgment and denying the plaintiff's motion for certification of a question of law to the Colorado Supreme Court. Instead, the court dismissed for other reasons and therefore declined to adopt the recommendations.

United States v. Blanc, 14-PO-65-GPG. This matter, involving threats to National Forest Service personnel and damage to public lands, proceeded to a bench trial and Defendant was convicted on 10 of 14 counts and ordered to pay \$30,000 in restitution. Defendant appealed. The district court overturned the conviction as to count seven. The district court further found that restitution should have been considered and possibly ordered under 18 U.S.C. § 3563(a) rather than under 18 U.S.C. § 3663(a)(1)(A). The district court reduced the restitution amount to \$6,230. Copy supplied.

McFadden v. Meeker Hous. Auth., No. 16-CV-2304-WJM-GPG (D. 238, Aug. 14, 2017 (filed under seal)), 2018 WL 1203163 (D. Colo. Mar. 8, 2018). I denied the plaintiffs' various motions to seal or restrict. The district court sustained some of the plaintiffs' objections and overruled the order, except for the portion regarding sanctions against the defendants.

Williams v. McKee, No. 13-CV-02546-PAB-GPG, 2014 WL 4627781 (D. Colo. Sept. 15, 2014). I recommended that the Court grant the plaintiff's motion for leave to amend. The District Court rejected this recommendation and granted the defendants' motion to dismiss. Copy supplied.

- 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.

The Court's filing system, CM/ECF, captures and permanently stores all opinions and orders I have issued. Westlaw has captured 486 of these for publication, and LexisNexis has captured 944 of these for publication. Approximately 41 percent of my opinions have been 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.

Scott v. Scott, 15-CV-2786-GPG. Copy previously supplied in response to Question 13d.

- 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 any 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.

Regarding my role supervising the *pro se* intake division, there is an automatic recusal policy for these cases. I am automatically recused if I am a party to the action or if the matter includes, as a party, any judge from the 21st Judicial District (Mesa County) or the District Attorney or any Deputy District Attorney for that jurisdiction. The recusal for the Mesa County officials is due to my continued private practice in that jurisdiction. With some regularity, *pro se* litigants sue judicial officers who have previously presided over their cases, resulting in a number of suits per year in which I am a named party and must recuse myself. I have not kept records of all automatic recusals issued by the Court as this is a purely administrative task handled by the Court Clerks. Also, a number of *pro se* litigants have moved for recusal on the basis that I have issued orders contrary to their position. This is typically not a valid basis for recusal, shows no animus on my part, and such a motion will most likely be denied. I do not have a record of these occurrences. On occasion, such motions are addressed by minute order by the district judge without my knowledge or involvement.

I have recused myself in a number of matters arising before me on the Western Slope. These have typically been necessitated by prior knowledge or representation of a particular litigant.

I believe that all my recusals have been either automatic or *sua sponte*. Other than litigation from the *pro se* intake division, I do not believe that a party has requested my recusal nor have I denied such a request except in that setting. I recused *sua sponte* in the following cases.

American Eagle v. Athena Enterprises, 20-CV-2743-DDD-GPG. I recused myself, *sua sponte*, after the parties notified me that I previously had represented the owner/president of one of the corporate entities in my private practice for an unrelated matter. Although I had not previously known that the client had any involvement with the corporation and the matters were unrelated, I believed the recency of the representation—within the prior year—created an appearance of impropriety necessitating recusal.

United States v. Harbin, 20-CR-164-CMA-JMC. I previously represented Defendant in state court for a similar matter. I found recusal was mandatory and I *sua sponte* recused myself.

Godbey v. Johnson, 16-cv-1823-NYW. I recused myself *sua sponte*. The defendant in this action is a local process server who had been periodically hired by my office, and I found that presiding over the action would have created an appearance of impropriety.

Burns v. Pohto, 15-cv-2326-REB-NYW. I was representing this defendant in a state criminal action at the time he was sued in federal court. I recused myself *sua sponte* as there was no way of curing the conflict of interest.

Hamilton v. Boyd, 15-cv-1107-LTB. I recused myself *sua sponte*. The plaintiff in this action sued a state court judge before whom I had a pending criminal action in my private practice. Presiding over the action would have created an appearance of impropriety.

United States v. Thompson, 13-cr-430-REB; *United States v. Thompson*, 11-mj-35-DW. I recused myself *sua sponte*. I was sharing office space with defense counsel at the time of my appointment and had some familiarity with the case. There was no method of curing the conflict.

Additionally, I have recused myself *sua sponte* and from the bench on several criminal matters. These arose from my in-court recognition of the defendant, usually from prior representation or knowledge in the community. The names and records do not populate in the Court's computer system because the rulings were oral, rather than by written order. My recollection of those is as follows:

United States v. Minor, 14-mj-38-CBS. I previously represented Defendant in a state case for a hunting violation. He was charged with a similar violation on federal land. I deemed that to raise a conflict and recused myself *sua sponte*.

Unknown case number. One Defendant was the son of a prior client whom I had represented several times. It was clear from the citation that the father (my former client) was a potential witness as to credibility for the defendant. I deemed this to raise a conflict and recused myself.

In two multi-defendant matters arising out of the Western Slope Protocol, I have screened myself from work related to a single defendant but maintained the referral role for co-defendants. These include *United States v. Briceno-Quijano*, 19-cr-535-CMA-GPG, in which I was representing/represented the husband of Defendant Cruz-Gomez and *United States v. Duarte*, 21-cr-395-CMA-GPG in which I previously represented Defendant Duarte. This partial screening, approved by the presiding district judge, allowed me to continue my involvement as the referral magistrate judge without any appearance of impropriety or conflict.

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.

None.

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

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have not served as a judicial law clerk.

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

I have been a sole practitioner since 2000.

2000 – 2001
200 Grand Avenue
Grand Junction, Colorado 81501

2001 – 2007
400 White Avenue
Grand Junction, Colorado 81501

2007 – present
754 Grand Avenue
Grand Junction, Colorado 81501

- 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;

1996 – 1997
Underhill & Underhill, P.C.
5430 South Quebec Street, Suite 306
Greenwood Village, Colorado 80111
Associate

1997 – 2000
Mesa County District Attorney's Office
21st Judicial District of Colorado
125 North Spruce Street
Grand Junction, Colorado 81501
Deputy District Attorney

2000 – present
Gordon Gallagher, Attorney at Law
754 Grand Avenue
Grand Junction, Colorado 81501
Owner and Sole Practitioner

2000 – 2012
Alternate Defense Counsel
1300 Broadway Street, Suite 330
Denver, Colorado 80203
Contract Attorney

- 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 never 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.

During law school, I clerked for Underhill & Underhill, P.C, a small business firm just south of Denver. I was hired as an associate upon passing the bar examination in the fall of 1996.

I was hired by the Mesa County District Attorney's Office (21st Judicial District) in February 1997 and began work there in March. I served in that position until July 2000. During that time, I tried more than seventy-five jury trials to verdict inclusive of misdemeanors and felonies. At the time of my departure, I was the lead county court prosecutor.

In July 2000, I opened my own law office focusing primarily on defending those accused of crimes in state and municipal courts on the Western Slope of Colorado. I have continually been engaged in private practice as a sole practitioner for over twenty years. In addition to criminal actions, I have handled what I consider to be related cases, such as restraining orders and actions filed to seal criminal records, topics on which I have written articles in order to assist other attorneys. My practice has been wide-ranging from traffic and misdemeanors to serious felonies.

From 2000 to 2012, I represented a sizeable number of defendants as a contract attorney for Alternate Defense Counsel (ADC). ADC is charged with affording representation to indigent defendants in juvenile and criminal actions when the public defender has a conflict. During the first several years of private practice, ADC work made up the bulk of my caseload. I handled matters for ADC primarily in Mesa County and upon request in both the 7th and 9th Judicial Districts. I was also assigned Rule 35(c) matters, a pre-appeal motion for post-conviction review allowed under Colorado law. I continued to accept ADC cases, as an assigned courtroom attorney and, later, upon special assignment, until I joined the bench in 2012, at which time I significantly reduced my state criminal practice to afford sufficient time for my new duties.

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

In private practice, my clients have been individuals under investigation for, charged with, or convicted of a variety of criminal offenses by the State of Colorado. I have represented individuals from all walks of life,

various backgrounds, and geographic locations.

- 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.

The vast majority of my practice has been litigation. There have been some rare exceptions to this when I have represented clients in the investigation stages of a criminal action and those clients have not been charged, thus no litigation ensued.

I have appeared daily, if not multiple times per day, in court for more than twenty-five years.

- i. Indicate the percentage of your practice in:

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

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 2% |
| 2. criminal proceedings: | 98% |

- 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 more than 275 trials to verdict, the vast majority of which were jury trials. Of the more than 250 jury trials, fewer than 20 were with co-counsel. At the beginning of my career, I tried several criminal matters as a prosecutor with a first-chair co-counsel. This is standard training practice in most district attorney's offices on the Western Slope. As a lead county court prosecutor, I tried numerous cases in the supervisory role with a second-chair counsel whom I was training. During private practice, I have tried a number of cases as first-chair counsel with a junior attorney in the learning role upon request by ADC.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 90% |
| 2. non-jury: | 10% |

- 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 United States 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. *People v. Harrison*, Mesa County District Court No. 22CR5010.

Mr. Harrison was charged with felony menacing with a deadly weapon after searching for and finding individuals he believed had assaulted his nephew and fired shots at the home of multiple family members. Defendant plead guilty, pursuant to a deferred judgment agreement, to felony menacing and received probation, a fine, and useful public service. My representation was in 2022. I was sole counsel for Mr. Harrison.

This case was before the Honorable Matthew Barrett, 21st Judicial District, District Court Judge.

Prosecutor:

James Campbell
District Attorney's Office for the 21st Judicial District
125 North Spruce Street
Grand Junction, CO 81501
(970) 244-1730

2. *People v. Fowler*, Mesa County District Court No. 20CR1724.

Mr. Fowler was charged with multiple counts of criminal attempt to commit murder in the first degree. Defendant and a co-defendant were accused of shooting into or at one or more houses, businesses, and the Grand Junction Police Department. Defendant pled guilty to two counts of criminal attempt to commit assault in the first degree and received a sentence to the Department of Corrections of fifteen years. My representation was from December 2020 until March 2022. I handled the entirety of the defense for Mr. Fowler and was sole counsel.

This case was before the Honorable Matthew Barrett, 21st Judicial District, District Court

Judge.

Prosecutor:

Shaheen Sheikh
Office of the Attorney General for the State of Colorado
1300 Broadway
Denver, CO 80203
(720) 508-6000

3. *People v. McElroy*, Mesa County District Court No. 15CR1226.

Mr. McElroy was charged with vehicular homicide and driving under the influence. The defendant was involved in a crash with a motorcyclist who died. Mr. McElroy was accused of being under the influence of marijuana at the time of the accident. After a multi-day jury trial the defendant was found not guilty of vehicular homicide and DUI but guilty of careless driving causing death and driving his while ability was impaired. He was then sentenced to ten months in county jail and probation. My representation was from 2015 to 2017. I was sole counsel for Mr. McElroy.

Before the Honorable Valerie Robison, 21st Judicial District, District Court Judge.

Prosecutor:

Jennifer Springer
District Attorney's Office for the 21st Judicial District
125 North Spruce Street
Grand Junction, CO 81501
(970) 244-1730

Additional counsel:

Robert Zentner
District Attorney's Office for the 7th Judicial District
501 Palmer Street
Delta, CO 81416
(970) 874-2085

4. *People v. Pohto*, Mesa County District Court No. 15CR1226.

Mr. Pohto was charged with reckless manslaughter for an incident where, while hunting, he shot and killed a local teenage boy who was hunting in a separate hunting group with the boy's father. Mr. Pohto accepted responsibility for his actions and pleaded guilty to one count of reckless manslaughter with a presumptive cap and received 5 years in state prison. My representation was from 2015 to 2016. I was sole counsel for Mr. Photo.

Before the Honorable Valerie Robison, 21st Judicial District, District Court Judge.

Prosecutor:

David Waite
District Attorney's Office for the 21st Judicial District
125 North Spruce Street
Grand Junction, CO 81501
(970) 244-1730

5. *People v. Fortunato*, Rio Blanco County District Court No. 8CR27.

Mr. Fortunato was charged with second degree assault for striking and causing serious bodily injury to an individual with a weapon in a bar in Rangely, Colorado. Defendant asserted self-defense. Defendant was found not guilty of all counts after a two-day jury trial. My representation was from 2008 to 2009. I was sole counsel for Mr. Fortunato.

Before the Honorable Thomas Osceola, 9th Judicial District, District Court Judge.

Prosecutor:

Hon. Jonathan Potosky
County Court Judge
Garfield County
200 East 18th Street, Suite 103
Rifle, CO 81650
(970) 625-5100

6. *People v. Butler*, Mesa County District Court No. 8CR1322.

Ms. Butler was charged with theft of more than \$ 600,000 over 10 years from her employer, a local engineering company. After extensive negotiation, Ms. Butler pleaded guilty to one count of theft and received a six-year sentence to Community Corrections, a work release facility run by the Department of Corrections, which would have allowed her to work and pay the victim back for her actions. Ms. Butler violated her Community Corrections sentence by not paying timely restitution and was sentenced to the Department of Corrections for twelve years. My representation was in 2008. I was sole counsel for Ms. Butler.

Before the Honorable Valerie Robison, 21st Judicial District, District Court Judge.

Prosecutor:

Jeremy Savage
Mesa County Attorney's Office
544 Rood Avenue
Grand Junction, CO 81501
(970) 244-1616

Richard Tuttle
District Attorney's Office for the 21st Judicial District

125 North Spruce Street
Grand Junction, CO 81501
(970) 244-1730

7. *People v. Coates*, Mesa County District Court No. 6CR993.

Mr. Coates was charged with attempted murder for a road-rage shooting incident. Extensive investigation and expert review over 18 months proved that there was a shooter from the alleged victim's vehicle as well. As sole counsel, I was able to continue the trial and proceedings in an effort to fully investigate this action. Ultimately, the defense investigator found bullets in a nearby barn matching Defendant's version of events—that the Defendants had been shot at by another victim. Around the same time, the alleged victim's girlfriend admitted that the victim had been shooting at the Defendant. All charges were ultimately dismissed. My representation was from 2006 to 2007.

Before the Honorable Brian Flynn, 21st Judicial District, Chief District Court Judge.

Prosecutor:

Mark Hand
LaCroix & Hand
725 Rood Avenue
Grand Junction, CO 81501
(970) 245-4601

8. *People v. Doty*, Garfield County District Court No. 5CR585.

Mr. Doty was charged with first-degree assault for a bayonet attack in a local home. I was sole counsel through all stages of the proceeding including preliminary hearing, motions, and trial. After a jury trial in which the defense contended that the prosecution had charged the wrong individual in a complex co-defendant action, Mr. Doty was found not guilty at jury trial of all charges under the theory that. His co-defendant, Mr. Lincoln, was found guilty at a separate trial with different counsel and received a lengthy prison sentence. My representation was from 2005 to 2006.

Before the Honorable James Boyd, 9th Judicial District, Chief District Court Judge.

Prosecutor:

Amy Fitch
District Attorney's Office for the 4th Judicial District
105 East Vermijo
Colorado Springs, CO 80903
(719) 520-6000

9. *People v. Thorpe*, Mesa County District Court No. 01CR628.

Mr. Thorpe, owner of a local bail-bond business, was charged with theft by receiving and

other counts under the theory that he had knowingly accepted a fee for bonding services that was proceeds from illegal activity. The prosecution was ultimately convinced that Mr. Thorpe was unaware of the source of the funds and dismissed the action. Mr. Thorpe's co-defendant, his wife, was represented by separate counsel and her case was similarly dismissed. I was sole counsel for Mr. Thorpe. My representation was from 2001 to 2002.

Before the Honorable Amanda Bailey, 21st Judicial District, District Court Judge.

Prosecutor:

David Waite

District Attorney's Office for the 21st Judicial District

125 North Spruce Street

Grand Junction, CO 81501

(970) 244-1730

10. *People v. Bergensky*, Mesa County District Court No. 95CR232.

Mr. Bergensky was charged with second-degree assault on two victims. I was sole counsel for the State of Colorado at the jury trial. At the conclusion of the victim's testimony during the jury trial, Mr. Bergensky pleaded guilty to two counts of felony menacing with open sentencing. Defendant received five years in the Department of Corrections. To the best of my recollection, this case had been transferred to me by another deputy district attorney who had done some preliminary work on the action, and I handled the matter in 1996.

Before the Honorable Charles Buss, 21st Judicial District, Chief District Court Judge.

Defense Counsel:

Rowe Stayton

405 East 3rd Street South

Prescott, AZ

(870) 887-0553

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.)

While the vast majority of my practice has been litigation, I have also frequently counseled a client or potential client, prior to being criminally charged, and the matter did not result in prosecution.

In my prior role as a Board Member for the Community Food Bank (CFB), I conducted legal research and gave legal advice to the Board on pending issues. In my current role as a Board Member for the Riverside Educational Center, I conduct legal research and give legal advice to the Board on pending issues. As with my service for the CFB, I am precluded from fundraising. Therefore, providing pro bono legal counsel constitutes the bulk of my volunteer time for this agency.

I have never acted as a lobbyist or registered as a lobbyist.

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).

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.

I do not believe that there is a particular category of litigation that would present an issue. On occasion I have had a former client, friend, or acquaintance appear before me in my role as United States Magistrate Judge. When appropriate, I have recused myself and ordered the Clerk of Court to assign another judicial officer. I would continue to address such conflicts in the same manner. If confirmed, I would resolve any conflict of interest by looking to the Code of Conduct for United States Judges, the Ethics Reform Act of 1989, 28 U.S.C. § 455, and any other relevant cases or laws. I would and have on occasion sought guidance from the Tenth Circuit Judicial Ethics Committee in making such determinations.

- 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 resolve any conflict of interest by looking to the Code of Conduct for United States Judges, the Ethics Reform Act of 1989, 28 U.S.C. § 455, and any other relevant cases or laws. Where appropriate, I would continue to seek guidance from the Tenth Circuit Judicial Ethics Committee in making such determinations.

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

I have frequently represented individuals at no cost or a significantly reduced fee in criminal actions in state court. These individuals are poor and sometimes disabled. This representation can include legal advice on specific issues up to and including entire-case representation. My prior role on the Board of the Community Food Bank and current role with the Riverside Educational Center have significant legal components (as I am not allowed to be involved in fund-raising)—thus, I satisfy some of my Board volunteer requirements to those agencies by way of legal work. I also serve by mentoring young lawyers, college students, and high school students regularly. Such mentoring includes internships of various lengths as well as co-establishing and working with the mentoring program within the Minoru Yasui American Inn of Court. I frequently volunteer to speak at local middle schools, high schools, and at the university level.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from

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

I submitted an application, jointly to both Senators Bennet and Hickenlooper, in March 2022. I was interviewed by the Nominating Commission appointed by the senators on April 19, 2022. I was interviewed by Senators Bennet and Hickenlooper on April 22, 2022. The following week I was informed that I, along with two other candidates, was being recommended to President Biden for possible nomination. I had previously been interviewed by the White House Counsel's Office in October 2021 for a prior vacancy, for which I was not nominated. Since May 26, 2022, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 6, 2022, my nomination was submitted to the Senate.

- 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.