

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Lauren Jennifer King

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

United States District Judge for the Western District of Washington

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.

Foster Garvey, P.C.
1111 Third Avenue, Suite 3000
Seattle, Washington 98101

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

1982; Oklahoma City, Oklahoma

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.

2005 – 2008, University of Virginia Law School; J.D., 2008

2000 – 2004, University of Washington; B.A. (with distinction), 2004

Fall 2002, Universidad de Cádiz; study abroad program; no degree

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.

2020 – present

Washington State Gambling Commission
4565 7th Avenue Southeast
Lacey, Washington 98503
Commissioner

Spring 2020
Seattle University School of Law
901 12th Avenue
Seattle, Washington 98122
Adjunct Professor

2013 – present
Northwest Intertribal Court System
20818 44th Avenue West, Suite 120
Lynnwood, Washington 98036
Pro Tem Appellate Judge

2012 – present
Foster Garvey, P.C. (formerly Foster Pepper PLLC)
1111 Third Avenue, Suite 3000
Seattle, Washington 98101
Principal (2019 – present)
Member (2016 – 2019)
Of Counsel (2015 – 2016)
Associate (2012 – 2014)
Executive Committee (2017, 2019)
Compensation Committee (2018 – 2019)

2010 – 2012
Byrnes Keller Cromwell LLP
1000 2nd Avenue, Suite 3800
Seattle, Washington 98104
Associate

Summer 2006, Summer 2007, 2008 – 2009
K&L Gates LLP (formerly Preston Gates & Ellis LLP)
925 4th Avenue, Suite 2900
Seattle, Washington 98104
Associate (2008 – 2009)
Summer Associate (2006, 2007)

2007 – 2008
Gold's Gym
1801 Hydraulic Road
Charlottesville, Virginia 22901
Personal Trainer

Summer 2007
Holme Roberts & Owen LLP (now Bryan Cave Leighton Paisner LLP)
1700 Lincoln Street, Suite 4100
Denver, Colorado 80203
Summer Associate

Jan. 2005 – Aug. 2005
PricewaterhouseCoopers LLP
405 Howard Street, Suite 600
San Francisco, California 94105
Systems and Process Assurance Associate

2004 – 2005
GEICO
5260 Western Avenue
Chevy Chase, Maryland 20815
Emerging Leader, Information Technology

Other Affiliations (uncompensated):

2020 – present
Mvskoke Reservation Protection Commission
Highway 75 & Loop 56
Okmulgee, Oklahoma 74447
Commission Member

2017 – 2019
Seattle Indian Health Board
611 12th Avenue South
Seattle, Washington 98144
Board Member

December 2007 – January 2008
Lummi Nation Prosecutor's Office
2665 Kwina Road
Bellingham, Washington 98226
Volunteer

January 2007
Peacekeepers Domestic Violence Program
216 Paseo Del Pueblo Norte
Taos, New Mexico 87571
Volunteer

December 2005 – January 2006

North American Indian Legal Services
1710 South Balsam
Lakewood, Colorado 80232
Volunteer

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 was not required to register for the selective service.

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

The Best Lawyers in America, Native American Law (2018 – 2021)

Rising Star, Washington Super Lawyers (2013 – 2020)

Native American 40 Under 40, National Center for American Indian Enterprise
Development (2018)

Law360's "Top Attorneys Under 40" in Native American Law (2016)

Fellow, Washington State Bar Association Leadership Institute (2012)

University of Virginia School of Law

Virginia Journal of Law and Technology

Editor-in-Chief (2007 – 2008)

Articles Editor and Executive Editor (2006 – 2007)

University of Virginia School of Law Academic Scholarship (2005 – 2008)

Preston Gates & Ellis National Minority Fellowship recipient (Summer 2006)

Mortimer Caplin Public Service Center pro bono award recipient (2005 – 2006)

Bracewell & Giuliani Best Oralist Award for first-year oral arguments (2006)

University of Washington

Graduated with Honors (2004)

Certificate of International Studies in Business (2004)

Dean's List (2000 – 2004)

Phi Eta Sigma Undergraduate Honor Society (2000 – 2004)

Golden Key Honor Society (2003 – 2004)

Puget Sound Energy Scholarship for Academic Merit (2001 – 2002; 2003 – 2004)

Bernice Strahl Caverly Scholarship for Academic Merit (2001 – 2002)

Eddie Bauer Scholarship for Academic Merit (2001 – 2002)

Certificate of High Scholarship (2000 – 2002)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association (2011 – present)

Federal Bar Association (2016 – present)

Indian Law Section Conference Chair (2018 – present)

Federal Bar Association of the Western District of Washington (2009 – 2012, 2021 – present)

Fellows of the American Bar Foundation (2017 – present)

King County Bar Association (2009 – present)

Muscogee (Creek) Nation Bar Association (2015 – present)

National Native American Bar Association (2021 – present)

Northwest Indian Bar Association (2008 – present)

Board Member (2011 – 2016)

Northwest Tribal Court Judges Association (2015 – present)

Secretary (2018 – present)

At Large Board Member (2016 – 2018)

National American Indian Court Judges Association Representative (2015 – 2016)

University of Virginia School of Law Native American Law Students Association (2006)

– 2008)

Vice President (2006 – 2008)

Washington State Bar Association (2008 – present)

Immediate Past Chair of the Indian Law Section (2016 – 2017)

Chair of the Indian Law Section (2015 – 2016)

Chair-Elect of the Indian Law Section (2014 – 2015)

Washington Women Lawyers (approximately 2008 – 2012)

10. **Bar and Court Admission:**

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

Washington State, 2008

Muscogee (Creek) Nation, 2015

Oklahoma State, 2016

Puyallup Tribe of Indians, 2020

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 Supreme Court, 2018

United States Court of Appeals for the Eleventh Circuit, 2021

United States Court of Appeals for the First Circuit, 2017

United States Court of Appeals for the Ninth Circuit, 2010

United States District Court for the Western District of Michigan, 2020

United States District Court for the Western District of Washington, 2009

Tribal Court for the Puyallup Tribe of Indians, 2020

Tribal Court for the Muscogee (Creek) Nation, 2015

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.

National Congress of American Indians (2016 – 2017)

- 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, the organization listed above does not currently discriminate, and has not formerly discriminated, on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

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

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

With Aaron Payment, *The Supreme Court's Decision in McGirt v. Oklahoma paves the way for improved safety and prosperity*, Aug. 26, 2020. Copy supplied.

With Rebecca Nagle, *Q&A: Lauren King on What the Five Tribes' Agreement-in-Principle Means for Oklahoma*, Native News Online, July 20, 2020. Copy supplied.

Millennials and the Judiciary: Working with the Newest Generation of Judicial Clerks and Attorneys, Federal Magistrate Judges Association Bulletin, Sept. 2019. Copy supplied.

Quarterly Northwest Legal Update, Federal Bar Association Indian Law Section Newsletter, 2013 – 2014, 2016 – 2017. Copies of the Spring 2016 and Spring

2014 newsletters supplied. I am unable to obtain a copy of the other newsletters from this time period. The Federal Bar Association publishes the Indian Law Section Newsletter. The address for the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201. The Indian Law Section Newsletter's Quarterly Northwest Legal Update contains summaries of cases decided since the publication of the prior newsletter by courts in the Pacific Northwest.

Challenge to Oklahoma's American Indian Arts and Crafts Sales Act, Native American Legal Update, Foster Pepper, Nov. 30, 2016. Copy supplied.

Word from the Chair, Washington State Bar Association Indian Law Section Newsletter (Vol. 24, No. 1, Summer 2016). Copy supplied.

Word from the Chair, Washington State Bar Association Indian Law Section Newsletter (Vol. 23, No. 2, Fall 2015). Copy supplied.

9th Circuit denies immunity for individual tribal employees, Native American Legal Update, Foster Pepper, Sept. 14, 2012 Copy supplied.

Washington State Supreme Court holds that tribes are not indispensable parties in challenge to state-tribal fuel tax compacts, Native American Legal Update, Foster Pepper, Aug. 30, 2012. Copy supplied.

Suquamish Tribe sues over Navy wharf, Native American Legal Update, Foster Pepper, Aug. 29, 2012. Copy supplied.

Muscogee Creek Nation Demands Halt to Poarch Band Wetumpka Casino Project, Native American Legal Update, Foster Pepper, Aug. 14, 2012. Copy supplied.

South Carolina Supreme Court returns adopted child to Cherokee father under ICWA, Native American Legal Update, Foster Pepper, Aug. 2, 2012. Copy supplied.

Treasury and IRS Announce New Guidance for Tribal Economic Development Bonds, Native American Legal Update, Foster Pepper, July 20, 2012. Copy supplied.

Northwest Tribes Hold Climate Change Conference, Native American Legal Update, Foster Pepper, July 17, 2012. Copy supplied.

Western Shoshone continue battle to save sacred site, Native American Legal Update, Foster Pepper, July 12, 2012. Copy supplied.

Department of Interior files counterclaim against Cherokee Nation in freedmen

suit, Native American Legal Update, Foster Pepper, July 3, 2012. Copy supplied.

Indian Health Care Improvement Act survives along with Affordable Care Act, Native American Legal Update, Foster Pepper, June 29, 2012. Copy supplied.

Co-author, Indian Law, Washington Lawyers Practice Manual, 2009. I am unable to obtain a copy of this material. The King County Bar Association publishes the Washington Lawyers Practice Manual. The King County Bar Association is located at 1200 5th Avenue, Suite 700, Seattle, Washington 98101. The Washington Lawyers Practice Manual is a legal reference set that is updated annually and contains current information regarding various areas of law. The Manual's Chapter on Indian Law describes current law on tribal sovereign immunity, jurisdiction over civil and criminal cases involving Indians and Indian country, and the Indian Child Welfare Act.

- 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.

Letter from Northwest Tribal Court Judges Association to Washington State Bar Association Mandatory Malpractice Insurance Task Force (Sept. 12, 2018). Copy supplied.

Washington State Bar Association Indian Law Section Executive Committee Letter to the Washington State Bar Association Board of Governors Regarding a Proposed WSBA Policy re Religious Practices at WSBA Events, Including Indian Law Section Events (July 20, 2016). Copy supplied.

Washington State Bar Association Indian Law Section Executive Committee Letter to the Washington State Bar Association Sections Policy Workgroup Regarding Feedback on Workgroup's Section Memorandum and Policy Documents (Jan. 22, 2016). Copy supplied.

National American Indian Court Judges Association, Res. No. 2015-01, *Resolution to Support the Recommendations of the Indian Law and Order Commission* (Oct. 24, 2015). Copy supplied.

National American Indian Court Judges Association, Res. No. 2015-02, *Resolution to Support the Recommendation of the Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence* (Oct. 24, 2015). 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.

As a Commissioner on the Washington State Gambling Commission, I have attended monthly public meetings since June 2020. During my tenure, the Commission has issued two administrative orders:

Order of Default (Dec. 29, 2020), available at <https://www.wsgc.wa.gov/sites/default/files/public/regulation/admin-orders/2020-00673%20-%20Gibson%2C%20Tiffany%20-%20Order.pdf>.

Order of Default (Oct. 20, 2020), available at <https://www.wsgc.wa.gov/sites/default/files/public/regulation/admin-orders/2020-00633%20-%20Bob%2C%20Russell%20-%20Order.pdf>.

The minutes of the Washington State Gambling Commission meetings are available at the Washington State Gambling Commission's past public meeting archive: <https://www.wsgc.wa.gov/commission/public-meeting-archive>.

March 2021 minutes are available here: https://www.wsgc.wa.gov/sites/default/files/public/agenda/2017/April%20Commission%20Packet_1.pdf.

February 2021 and February 24, 2021 Special Commission Meeting minutes are available here: https://www.wsgc.wa.gov/sites/default/files/public/agenda/2017/March%20Commission%20Packet_1.pdf.

January 2021 minutes are available here: https://www.wsgc.wa.gov/sites/default/files/public/agenda/2017/February%20Commission%20Packet_1.pdf.

December 2020 minutes are available here: https://www.wsgc.wa.gov/sites/default/files/public/agenda/2017/January%20Commission%20Packet%20-%20revised_0.pdf

November 2020 minutes are available here: https://www.wsgc.wa.gov/sites/default/files/public/agenda/2017/December%20Commission%20Packet_1.pdf.

October 2020 minutes are available here: https://www.wsgc.wa.gov/sites/default/files/public/agenda/2017/11%2020%20Commission%20Packet_2.pdf.

September 2020 minutes are available here:

https://www.wsgc.wa.gov/sites/default/files/public/agenda/2017/October%20Commission%20Packet_0.pdf

August 2020 minutes are available here:

https://www.wsgc.wa.gov/sites/default/files/public/agenda/2017/September%20Commission%20Packet_2.pdf.

July 2020 minutes are available here:

https://www.wsgc.wa.gov/sites/default/files/public/agenda/2017/August%20commission%20packet_F.pdf.

June 2020 minutes are available here:

https://www.wsgc.wa.gov/sites/default/files/public/agenda/2017/Commission%20Packet_10.pdf.

Public Hearing on Gubernatorial Appointments, including SGA 9174 – Lauren King, Member, Gambling Commission, Before the Washington State Senate Labor, Commerce & Tribal Affairs Committee (Mar. 18, 2021), <https://www.tvw.org/watch/?eventID=2021031296> (my testimony begins at approximately 32 minutes).

Listed as a “Prominent Tribal Community Leader” endorsing Joe Biden for President (Oct. 15, 2020). Copy of news coverage of the list supplied.

Letter from various lawyers and law professors to Attorney General Jeff Sessions (Feb. 23, 2017). Copy supplied.

Letter from various lawyers to House Speaker Paul Ryan (Nov. 23, 2016). Copy supplied.

Listed as a “Leader in the Judiciary, Government, and the Community” endorsing King County Superior Court Judge David Keenan (2016). 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.

April 9, 2021: Moderator, “Ethics Session,” Federal Bar Association Indian Law Section, virtual event. Copy of remarks supplied.

April 8, 2021: Moderator, "McGirt: The Aftermath," Federal Bar Association Indian Law Section, virtual event. Copy of remarks supplied.

April 8, 2021: Moderator, "Sports Betting: Exploring a New Landscape in Tribal Gaming," Federal Bar Association Indian Law Section, virtual event. Copy of remarks supplied.

January 19, 2021: Guest lecturer, "Contemporary Issues in Native American Law: *McGirt v. Oklahoma*," Seattle University School of Law, virtual event. PowerPoint supplied.

January 5, 2021: Guest lecturer, "Property Law: Native American Law," University of Washington School of Law, virtual event. PowerPoint supplied.

November 13, 2020: Speaker, "Tribal Sovereignty and *McGirt v. Oklahoma*," Oregon State Bar Indian Law Section, virtual event. PowerPoint supplied.

September 15, 2020: Speaker, "The Saga of EPA and Washington's Human Health Criteria Standard," Tribal Water Law Conference, CLE International, virtual event. PowerPoint supplied.

May 8, 2020 and May 11, 2020: Panelist, "Tribal Employment Law Challenges: Returning Employees to the Workplace," Foster Garvey, P.C., virtual event. PowerPoint supplied.

October 25, 2019: Panelist, "*Murphy v. Sharp*: Reservation disestablishment in the new Supreme Court," Oregon State Bar Indian Law Section CLE, Eugene, Oregon. PowerPoint supplied.

October 4, 2019: Speaker, "Intersection of Municipal Law and Indian Law," 62nd Annual Washington State Association of Municipal Attorneys Fall Conference, Walla Walla, Washington. PowerPoint supplied.

October 3, 2019: Speaker, "Tribal Treaty Rights and Hydropower: the Culverts Case," The Seminar Group, Seattle, Washington. PowerPoint supplied.

July 23, 2019: Panelist, "Millennials and The Judiciary: Who You Think They Are, Who They Really Are, and Why We Should Care," Ninth Circuit Judicial Conference, Spokane, Washington. PowerPoint supplied.

June 6, 2019: Speaker, "Getting to Five in the Roberts Court: The New Supreme Court Landscape for Tribal Nations," Sovereignty Symposium, Oklahoma City, Oklahoma. PowerPoint supplied.

April 25, 2019: Speaker, "Software as a Service Agreements," Washington State Association of Municipal Attorneys Spring Conference, Vancouver, Washington.

PowerPoint supplied.

April 12, 2019: Moderator, "Supreme Court Strategy: What Tribes Should Know," Federal Bar Association Indian Law Section, Albuquerque, New Mexico. Notes supplied.

April 12, 2019: Moderator, "Treaty Fishing Rights and Sovereign Immunity at the Supreme Court," Federal Bar Association Indian Law Section, Albuquerque, New Mexico. I introduced speakers for this panel. I have no notes, transcript, or recording. The address for the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

April 11, 2019: Moderator, "Elections 2020: Campaigns and Elections in Indian Country," Federal Bar Association Indian Law Section, Albuquerque, New Mexico. I introduced speakers for this panel. I have no notes, transcript, or recording. The address for the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

February 7, 2019: Panelist, "Recent Appellate Cases Affecting Tribes: Cougar Den," 24th Annual Western Indian Gaming Conference & Trade Show, Funnor, California. PowerPoint supplied.

January 29, 2019: Panelist, "Recent Decisions: Tribal Water & Treaty Rights in the U.S. Supreme Court: *United States v. Washington*," 6th Annual Advanced Conference on Tribal Water in California, Law Seminars International, Funnor, California. PowerPoint supplied.

November 1, 2018: Speaker, "Recent Tribal Lands Decisions," Rainier Club Legal Roundtable, Seattle, Washington. PowerPoint supplied.

October 16, 2018: Speaker, "Hirst, Foster, Boldt, and Beyond: Indian Law Preceding RCW Chapter 90.94," American Water Rights Association Washington State Conference, Seattle, Washington. PowerPoint supplied.

October 11, 2018: Speaker, "Developing Litigation Claims: *Winans*-Based Fishery Claims," 7th Annual Tribal Water Law Conference, CLE International, Scottsdale, Arizona. PowerPoint supplied.

September 28, 2018: Guest Lecturer, "*United States v. Washington*, Subproceeding 09-1," Seattle University School of Law, Seattle, Washington. PowerPoint supplied.

September 24, 2018: Panelist, "Defined Terms in Federal Indian Law," Washington State Courts Judicial Conference, Yakima, Washington. PowerPoint supplied.

April 6, 2018: Moderator, “Ethics in the Trump Era,” Federal Bar Association Indian Law Section, Scottsdale, Arizona. I introduced speakers for this panel. I have no notes, transcript, or recording. The address for the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

April 6, 2018: Moderator, “Treaty Rights & Subsistence Rights: Do Treaties Have Teeth?”, Federal Bar Association Indian Law Section, Scottsdale, Arizona. I introduced speakers for this panel. I have no notes, transcript, or recording. The address for the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

April 6, 2018: Speaker, “*United States v. Washington*, Subproceeding 09-1,” Federal Bar Association Indian Law Section, Scottsdale, Arizona. PowerPoint supplied.

April 5, 2018: Moderator, “30 Years Later: IGRA and Economic Development,” Federal Bar Association Indian Law Section, Scottsdale, Arizona. I introduced speakers for this panel. I have no notes, transcript, or recording. The address for the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

April 5, 2018: Moderator, “IHS and the Opioid Epidemic,” Federal Bar Association Indian Law Section, Scottsdale, Arizona. I introduced speakers for this panel. I have no notes, transcript, or recording. The address for the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

June 8, 2017: Speaker, “Tribal Access Program,” Sovereignty Symposium, Oklahoma City, Oklahoma. PowerPoint supplied.

June 7, 2017: Speaker, “*United States v. Washington*, Subproceeding 09-1,” Sovereignty Symposium, Oklahoma City, Oklahoma. PowerPoint supplied.

April 20, 2017: Speaker, “Hickory Ground: Alabama Homelands, Litigation and Cultural Preservation,” Muscogee (Creek) Nation Bar Association, Tulsa, Oklahoma. PowerPoint supplied.

December 8, 2016: Speaker, “Litigation Update: Labor Law and Tribal Gaming,” The Seminar Group, Seattle, Washington. PowerPoint supplied.

December 6, 2016: Speaker, “Paragraph 25(a)(6),” *United States v. Washington* Continuing Learning and Education Seminar, Tulalip, Washington. PowerPoint supplied.

June 9, 2016: Panelist, “The Concerns of the Judiciary – A Focus on Mutual Concerns of the State, Federal, and Tribal Bench,” Sovereignty Symposium,

Oklahoma City, Oklahoma. I spoke about the background of the Northwest Intertribal Court System and the services it offers. I have no notes, transcript, or recording. The address for the Sovereignty Symposium is Oklahoma Judicial Center, 2100 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

June 8, 2016: Panelist, “When Can Tribal Officials/Officers be Sued?”, Sovereignty Symposium, Oklahoma City, Oklahoma. PowerPoint supplied.

May 12, 2016: Program Chair, “Introduction of Traditional Opening Program” and “Welcome and Introductions by Program Chair,” Annual Washington State Bar Association Indian Law Section Seminar, Seattle, Washington. I gave an introduction of the traditional opening program and provided a welcome statement and introduction to the program at the beginning of the seminar. I have no notes, transcript, or recording. The address for the Washington State Bar Association is 1325 Fourth Avenue, Suite 600, Seattle, Washington 98101.

March 7, 2016: Guest lecturer, “*United States v. Washington*, Subproceeding 09-1,” University of Washington Indian Law Seminar, Seattle, Washington. PowerPoint supplied.

May 15, 2014: Speaker, “Tales from the Cryptocurrency,” Northwest Summit for Financial Professionals, Seattle, Washington. PowerPoint supplied.

May 7, 2014: Speaker, “Defending Tribal Governments,” The Seminar Group, Seattle, Washington. PowerPoint supplied.

November 20, 2013: Speaker, “Tribal Sovereignty, Strategic Planning, and Economic Development,” MyLawCLE, virtual event. PowerPoint supplied.

November 7, 2013: Speaker, “Website Audits: IP Issues, Terms of Use and Privacy Policies,” King County Bar Association, Seattle, Washington. PowerPoint supplied.

August 22, 2013: Speaker, “Virtual Currency,” Washington Interactive Network, Seattle, Washington. PowerPoint supplied.

May 23, 2013: Speaker, “Protecting Native Artisans Through Non-Profit and IP Law,” Washington State Bar Association Indian Law Section, Seattle, Washington. PowerPoint supplied.

April 30, 2013: Moderator, “Expert Gaming & Mobile Panel,” ZINO Society, Bellevue, Washington. The panel I moderated discussed issues facing startup game developers, in-game monetization issues, and how the game industry is changing. I have no notes, transcript, or recording. The address for ZINO Society was 4130 First Avenue South, Suite B, Seattle, Washington 98134. ZINO Society no longer exists.

February 27, 2013: Speaker, "Protecting Native Artisans Through Non-Profit and IP Law," Foster Pepper PLLC, Seattle, Washington. PowerPoint supplied.

July 27, 2012: Speaker, "Legal Issues for Startups," SURF Incubator, Seattle, Washington. PowerPoint 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.

Grace Dixon, *Ala. Tribe Need Not Face Burial Grounds Suit, Judge Rules*, Law360, Mar. 16, 2021. Copy supplied.

Class Notes, UVA Lawyer, Fall 2020. Copy supplied.

This Land Podcast, *The Ruling*, Crooked Media, July 23, 2020, available at <https://crooked.com/podcast/the-ruling> (I speak at various times during this podcast, starting at 9:54 and ending at 24:24).

Jeremie Poplin Podcast, *Tribal Jurisdiction Decision*, Talk Radio AM 1170, July 10, 2020, available at <https://post.futurimedia.com/kfaqam/playlist/25/listen-2400.html?cb=1594398366.473341&fbclid=IwAR35hd8jq4k2czGiPsyK7lQSWiz8Hrc12tEtWWNCe-RtlVWoaMag0wNn4w>.

Defending sacred places, Native America Calling Podcast, Aug. 12, 2019, available at <https://nativeamericacalling.com/monday-august-12-2019-defending-sacred-places> (my segment is from 48:35 to 55:58).

40 Under 40 Awards Gala, National Center for American Indian Enterprise Development, July 5, 2019, available at <https://www.facebook.com/NCAIED/videos/596121464547571>.

Ed Silverstein, *Alleged Mistreatment of Muscogee Sacred Site Leads to More Alabama Litigation Over Wind Creek Casino*, Casino.org, June 10, 2019. Copy supplied.

Stephen Lanzi, *Auburn University listed as defendant in lawsuit refiled by Muscogee (Creek) Nation*, Auburn Plainsman, June 6, 2019. Copy supplied.

Associated Press, *Oklahoma Creeks renew lawsuit over Alabama casino*, June 5, 2019. Copy supplied (reprinted in multiple outlets).

Victory at the Supreme Court for Quileute and Quinault in Ocean Fishing Area Case, Forks Forum, Oct. 11, 2018. Copy supplied.

King named as a Native American 40 under 40 award recipient, Bayak/The Talking Raven, Oct. 2018. Copy supplied.

Victory! Supreme Court Order for Quileute and Quinault in Ocean Fishing Area Case, Bayak/The Talking Raven, Oct. 2018. Copy supplied.

Jimmy Hoover, *7 High Court Petitions From Last Month You Shouldn't Miss*, Law360, June 1, 2018. Copy supplied.

Adam Lidgett, *9th Circ. Wrongly Expanded Fishing Rights Treaty, Tribe Says*, Law360, May 25, 2018. Copy supplied.

Darren Delaune, *Citizen helps tribes win case*, The Mvskoke News, Feb. 1, 2018. Copy supplied.

Adam Lidgett, *Tribes Win Bid To Pause Burial Grounds Suit Until April*, Law360, Jan. 16, 2018. Copy supplied.

Adam Lidgett, *Let Fishing Rights Ruling Stand, Wash. Tribes Tell 9th Circ.*, Law360, Dec. 15, 2017. Copy supplied.

Adam Lidgett, *Tribes Want Burial Grounds Suit Paused For Deal Talks*, Law360, Dec. 6, 2017. Copy supplied.

October in the news, Native America Calling Podcast, Oct. 27, 2017, available at <https://soundcloud.com/native-america-calling/10-27-17-october-in-the-news> (my segment is from 42:12 to 50:28).

RJ Vogt, *Whales Are Fish and Tribal Borders Need Fix, 9th Circ. Says*, Law360, Oct. 23, 2017. Copy supplied.

Christine Powell, *Wash. Tribes Ask 9th Circ. To Uphold Fishing Rights Ruling*, Law360, Oct. 12, 2016. Copy supplied.

Christine Powell, *Tribe Asks 9th Circ. To Undo Fishing Rights Ruling*, Law360, July 7, 2016. Copy supplied.

Eric Kroh, *Rising Star: Foster Pepper's Lauren King*, Law360, May 5, 2016. Copy supplied (reprinted in multiple outlets).

Mary Rekosh, *A Strong Advocate for Native American Rights*, UVA Lawyer, Spring 2016. Copy supplied.

Darren DeLaune, *Citizen helps tribe win landmark case*, Muscogee Nation News, Jan. 1, 2016. Copy Supplied.

Vidya Kauri, *5 Things Great Lawyers do to Keep Clients Coming Back*, Law360, Dec. 3, 2015. Copy supplied.

Vidya Kauri, *Wash. Tribes Win Contested Fishing Area in Pacific Ocean*, Law360, Aug. 28, 2015. Copy supplied.

Federal judge rules on Quileute, Quinault fishing grounds after Makah lawsuit, Peninsula Daily News, July 16, 2015. Copy supplied.

Greg Guedel, *Northwest Tribes Win Major Fishing Rights Ruling*, Native American Legal Update, Foster Pepper, July 13, 2015. Copy supplied.

Caroline Simson, *Wash. Tribes' Fishing Rights Reach Far Offshore, Judge Says*, Law360, July 10, 2015. Copy supplied.

Notice: July 9, 2015, Quileute Tribe, July 9, 2015. Copy supplied.

Caroline Simson, *Tribes Say Fishing Rights Exclude Sea Mammals*, Law360, April 17, 2015. Copy supplied.

Class Notes, UVA Lawyer, Fall 2009. 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.

2013 – present
Northwest Intertribal Court System
20818 44th Avenue West, Suite 120
Lynnwood, Washington 98036
Pro Tem Appellate Judge

I have been a pro tem appellate judge with the Northwest Intertribal Court System (“NICS”) since 2013. Various Native American tribes contract with NICS to provide judges for their tribal courts. *See* NICS Member Tribes, <https://www.nics.ws/tribes.html>. Tribes often do not need full time appellate judges, so NICS appellate judges effectively serve as pro tem judges for NICS tribes. To become a NICS judge, applicants submit a letter of interest, resume, three writing samples, and references to NICS. *See* NICS Judicial Services Description, <https://www.nics.ws/judicial.html>. However, judges are assigned to cases based upon the requirements in the subject tribe’s tribal code. For example, some (but not all) tribes require that judges be enrolled in a federally recognized tribe. Tribal courts exercise jurisdiction in accordance with applicable tribal and federal law.

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

or judgment?

Because I have not been a trial judge, I have not presided over any cases as a trial judge. As an appellate judge with the Northwest Intertribal Court System, I have participated in the disposition of 11 matters that have resulted in an opinion.

i. Of these cases, approximately what percent were:

jury trials:	N/A
bench trials:	N/A

ii. Of these cases, approximately what percent were:

civil proceedings:	100%
criminal proceedings:	0%

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

As an appellate judge, I have served on three-judge panels. Usually, one judge writes the initial draft of the panel's opinion, but all three judges contribute to the final draft. Therefore, I have provided citations for all opinions issued by panels on which I have served.

Opinions I authored:

Kalispel Tribe et al. v. Bisson, 18 NICS App. 54 (December 2020) – Kalispel Tribal Court of Appeals

In Re Anderson, 18 NICS App. 47 (December 2020) – Squaxin Island Tribal Court of Appeals

In Re Anderson, 18 NICS App. 13 (April 2020) – Squaxin Island Tribal Court of Appeals

Opinions to which I contributed:

Port Gamble S'Klallam Tribe et al. v. Lexington Insurance Company et al., Case No. POR-AP-2021-0001, 21 NICS App. __ (April 28, 2021) – Port Gamble S'Klallam Tribal Court of Appeals

In Re Welfare of M.G.G., Case No. 2020-001-AP-IC, 18 NICS App. (February 10, 2020) (unreported) – Kalispel Tribal Court of Appeals

Teeman v. Dick, Case No. PR-001-17, 15 NICS App. (May 23, 2017) (unreported) – Burns Paiute Tribal Court of Appeals

Shoalwater Bay Indian Tribe v. Shipman, Case No. SHO-2015-CV-HS-0034, 12 NICS App. 65 (February 22, 2016) (unreported) – Shoalwater Bay Tribal Court of Appeals

In Re A.A.F., 13 NICS App. 28 (July 2015) – Port Gamble S’Klallam Tribal Court of Appeals

In re the Custody of P.M., 12 NICS App. 76 (July 2014) – Port Gamble S’Klallam Tribal Court of Appeals

Shoalwater Bay Indian Tribe v. Zirbel, Case No. SHO-2013-CV-HS-0023, 12 NICS App. 97 (December 1, 2014) (unreported) – Shoalwater Bay Tribal Court of Appeals

In re the Welfare of J.J., Case No. MUC-AP-12/13-125, 12 NICS App. 95 (May 21, 2014) (unreported) – Muckleshoot Tribal Court of Appeals

- 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).

Reported cases listed below can be found in the Northwest Intertribal Court System’s online database of tribal court appellate opinions:
<https://www.codepublishing.com/WA/NICS>.

1. *Port Gamble S’Klallam Tribe et al. v. Lexington Insurance Company et al.*, Case No. POR-AP-2021-0001, 21 NICS App. __ (April 28, 2021) – Port Gamble S’Klallam Tribal Court of Appeals

The Port Gamble S’Klallam Tribe and Noo-Kayet Development Corporation sued various insurers in a dispute concerning an “all risk” insurance policy. The insurers contended that the trial court erred in denying their motion to dismiss the complaint. Three of the insurers filed a motion requesting my recusal on the bases that (1) I am a citizen of a tribe that was engaged in litigation with the insurers in a separate forum; and (2) attorneys at my law firm were handling matters adverse to one of the insurers. Because I voluntarily decided to recuse myself out of an abundance of caution with respect to the latter proffered basis for recusal, the Court of Appeals granted the insurers’ motion. However, the Court of Appeals rejected the insurers’ argument that I was required to recuse on the basis that I am a citizen of a tribe that was engaged in litigation with the insurers in a different forum in Oklahoma, holding that such facts failed to establish a reasonable basis to question my impartiality. Copy of opinion supplied.

Appellants' Counsel:

Lexington Insurance Company

Richard J. Doren, Matthew A. Hoffman, and Ryan
S. Appleby
Gibson, Dunn & Crutcher
333 South Grand Avenue
Los Angeles, CA 90071-3197
Mr. Doren: (213) 229-7038
Mr. Hoffman: (213) 229-7584
Mr. Appleby: (213) 229-7353

Aspen Insurance UK Ltd.

Thomas Lether and Eric J. Neal
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Mr. Lether: (206) 467-5444, extension 101
Mr. Neal: (206) 467-5444, extension 102

Hallmark Specialty Insurance and Aspen Specialty
Insurance Company

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(253) 201-6813

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1848 Westlake Avenue North, Suite 100
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Homeland Insurance Company of New York

Kristin Cummings and Shannon O'Malley
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901 Main Street, Suite 4000
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Ms. O'Malley: (214) 749-4220

Michael Ricketts

Gordon Thomas Honeywell
One Union Square
600 University Street, Suite 2100
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Certain Underwriters at Lloyd's Syndicates

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Boston, MA 02199
(617) 267-2300

Respondents' Counsel:

Port Gamble S'Klallam Tribe

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Vernie C. (“Skip”) Durocher, Jr., Katie Pfeifer, and
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Mr. Durocher: (612) 340-7855
Ms. Pfeifer: (612) 492-6947
Mr. Weingold: (303) 629-3425

2. *Kalispel Tribe et al. v. Bisson*, 18 NICS App. 54 (December 2020) – Kalispel Tribal Court of Appeals

Bisson filed a tort complaint against a police officer and other officials of the Kalispel Tribe arising from a car accident involving the police officer’s vehicle. The Kalispel Tribe’s Tort Claims Code contained a limited waiver of the Tribe’s immunity for tort claims brought in accordance with the Code. The Code specified a deadline for filing a tort complaint but did not specify a deadline for service. The Kalispel Tribe argued that the plaintiff did not timely serve his complaint in accordance with the Code, and the Tribe therefore retained sovereign immunity from the lawsuit. The Court of Appeals held that the complaint was timely served even under the strictest construction of the possible deadline for service under the Tribal Code because it was subject to a 30-day tolling order issued by the trial court at the onset of the COVID-19 pandemic.

Appellants’ Counsel: Jerald Conner Sabin and Donald J. Colistro
Kalispel Legal Department
934 South Garfield Road
Airway Heights, WA 99001
Mr. Sabin: (509) 789-7610
Mr. Colistro: (509) 789-7623

Respondent’s Counsel: Robert M. Seines for Appellee Bisson
P.O. Box 313
Liberty Lake, WA 99019-0313
(509) 844-3723

3. *In Re Anderson*, 18 NICS App. 47 (December 2020) – Squaxin Island Tribal Court of Appeals

In a prior appeal (discussed below), the Court of Appeals remanded this case to the trial court with instructions to apply the correct standard of review to the Squaxin Island Tribe Workers Compensation Plan Committee’s decision affirming Tribal First’s closure of Anderson’s workers compensation claim. Tribal First argued that the trial court erred by failing to perform the required

review. Anderson contended for the first time in this appeal that the Court of Appeals lacked jurisdiction over appeals relating to the Tribe's Workers Compensation Plan. The Court of Appeals held that the appellate court lacked jurisdiction over the case because the Squaxin Island Tribal Workers Compensation Plan did not provide for appeals beyond the trial court level, and the Squaxin Island Tribal Code incorporated the Plan into its law. The Court of Appeals therefore vacated its prior opinion.

Appellant's Counsel: James L. Gress
Gress, Clark, Young and Schoepper
8705 Southwest Nimbus Avenue, Suite 240
Beaverton, OR 97008-7154
(971) 285-3525

Respondent's Counsel: Cina Littlebird and Jennifer Yogi
Northwest Justice Project
401 2nd Avenue South, Suite 407
Seattle, WA 98104-3811
Ms. Littlebird: (206) 707-0919
Ms. Yogi: (206) 464-1519

4. *In Re Anderson*, 18 NICS App. 13 (April 2020) – Squaxin Island Tribal Court of Appeals

Tribal First appealed the trial court's reversal of the Squaxin Island Tribe Workers Compensation Plan Committee's decision affirming Tribal First's closure of Anderson's workers compensation claim. The Court of Appeals held that the trial court applied an incorrect standard of review by erroneously treating the Squaxin Island Tribe Workers Compensation Plan Committee as the factfinder, when it was the Tribal First claims administrator who served as the factfinder and initial decisionmaker. The Court of Appeals held that the trial court also committed an error of law in ordering reinstatement of appellee's claim, because applicable law did not give the trial court authority to order such relief. The Court of Appeals reversed the trial court's decision and remanded for further proceedings.

Appellant's Counsel: James L. Gress
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(971) 285-3525

Respondent's Counsel: Cina Littlebird and Jennifer Yogi
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Ms. Yogi: (206) 464-1519

Counsel for the Squaxin Island Tribe, Amicus Curiae:

LeeAnne Kane
Squaxin Island Tribe Legal Department
3711 Southeast Old Olympic Highway
Shelton, WA 98584-7734
(360) 432-1771, extension 2

5. *In Re Welfare of M.G.G.*, Case No. 2020-001-AP-IC, 18 NICS App. (February 10, 2020) (unreported) – Kalispel Tribal Court of Appeals

The Kalispel Tribe argued that the trial court erred in denying a motion for continuance in parallel trial court proceedings involving a youth in need of care case and a long-term guardianship case. During the pendency of the appeal, the trial court reset the hearings in both cases. The Court of Appeals held that the appeal was moot. Copy of opinion supplied.

Appellant’s Counsel: Jerald Conner Sabin and Ashley Stetson
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934 South Garfield Road
Airway Heights, WA 99001
Mr. Sabin: (509) 789-7610
Ms. Stetson: (509) 789-7608

Respondent’s Counsel: Elizabeth R. Tereno
Law Office of Elizabeth Tereno
1818 West Francis, Unit 142
Spokane, WA 99205
(509) 720-6999

6. *Teeman v. Dick*, Case No. PR-001-17, 15 NICS App. (May 23, 2017) (unreported) – Burns Paiute Tribal Court of Appeals

Ms. Teeman argued that the trial court erred when it replaced her as administrator of an estate with Mr. Dick. Because Ms. Teeman did not provide proof of service of the notice of appeal, the Court of Appeals issued an Order to Show Cause ordering Ms. Teeman to provide proof that the respondent had been timely and properly served with such notice. Because Ms. Teeman’s “Proof of Service” indicated that the respondent was not timely served in accordance with the Burns Paiute Tribal Code, the Court of Appeals dismissed the appeal and ordered that the appellant pay all costs of the appeal. Copy of opinion supplied.

Appellant Teeman was not represented by counsel in this appeal.

Respondent did not appear in the appeal.

7. *Shoalwater Bay Indian Tribe v. Shipman*, Case No. SHO-2015-CV-HS-0034, 12 NICS App. 65 (February 22, 2016) (unreported) – Shoalwater Bay Tribal Court of Appeals

The appellant challenged his eviction from tribal housing for failure to pay rent. At oral argument, a spokesperson appeared on the appellant's behalf and stated that he could pay the appellant's late rent. The Court of Appeals informed the parties that it would delay any decision for approximately a month and a half for the parties to explore settlement. In February 2016, the Court of Appeals dismissed the appeal following the parties' settlement of the matter. Copy of opinion supplied.

Appellant's Counsel: A lay spokesperson represented Mr. Shipman.

Respondent's Counsel: Tim Rybka
Prosecutor, Shoalwater Bay Tribe
P.O. Box 2733
Ferndale, WA 98248-2733
(360) 318-4864

8. *In Re A.A.F.*, 13 NICS App. 28 (July 2015) – Port Gamble S'Klallam Tribal Court of Appeals

The mother of an enrolled minor tribal member filed a petition for writ of mandamus and writ of prohibition in the Court of Appeals seeking to vacate a contempt order issued by the trial court and to prohibit the trial court from making future findings of contempt on the existing facts. The trial court had issued an order holding the mother in contempt for removing the child from the State of Washington in violation of the parenting plan issued by the trial court. Because the mother failed to timely appeal the original contempt ruling and maintained the right to appeal any future contempt rulings, the Court of Appeals held that the mother failed to establish a clear ministerial duty to be compelled through issuance of a writ, and that because the mother had adequate remedies at law, the Court of Appeals did not need to decide the threshold question of whether it had authority to issue writs. The Court of Appeals denied the petition for writ.

Appellant's Counsel: Brian Kilgore
6332 31st Avenue Northeast, Suite B
Tulalip, WA 98271-7461
(360) 716-4785

David Howard
500 Yale Avenue North, Suite 140
Seattle, WA 98109-5680

(206) 234-7750

Respondent's Counsel: Mr. Fulton represented himself *pro se*.

Counsel for Intervenor-Appellant Port Gamble S'Klallam Tribe:

Tim Rybka
Prosecutor, Port Gamble S'Klallam Tribe
P.O. Box 2733
Ferndale, WA 98248-2733
(360) 318-4864

9. *In re the Custody of P.M.*, 12 NICS App. 76 (July 2014) – Port Gamble S'Klallam Tribal Court of Appeals

The appellant challenged the visitation schedule in the parenting plan ordered by the trial court. The Court of Appeals adopted Washington State courts' standard for review of a trial court's orders regarding visitation schedules under a parenting plan. Because the trial court's findings were supported by substantial evidence and the trial court applied the relevant factors in determining the visitation schedule, the Court of Appeals held that the trial court did not abuse its discretion and affirmed its order.

The parties appeared *pro se* in this appeal.

10. *In re the Welfare of J.J.*, Case No. MUC-AP-12/13-125, 12 NICS App. 95 (May 21, 2014) (unreported) – Muckleshoot Tribal Court of Appeals

The father of an enrolled minor tribal member challenged the Permanent Plan Order issued by the trial court. The respondent tribe filed a motion to dismiss the appeal on the grounds that it was not timely. Because the appeal was not timely filed in accordance with the requirements of the Muckleshoot Tribal Code, the Court of Appeals dismissed the appeal. Copy of opinion supplied.

Appellant's Counsel: Appellant represented himself *pro se*.

Respondent's Counsel: Annie Harlan
Prosecutor, Muckleshoot Indian Tribe
3815 South Othello Street, Suite 100
Seattle, WA 98118-3510
(253) 220-7710

- 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.

Reported cases listed below can be found in the Northwest Intertribal Court System's online database of tribal court appellate opinions:
<https://www.codepublishing.com/WA/NICS>.

Opinions I authored:

1. *Kalispel Tribe et al. v. Bisson*, 18 NICS App. 54 (December 2020) – Kalispel Tribal Court of Appeals

Appellants' Counsel: Jerald Conner Sabin and Donald J. Colistro
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934 South Garfield Road
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Respondent's Counsel: Robert M. Seines
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(509) 844-3723

2. *In Re Anderson*, 18 NICS App. 47 (December 2020) – Squaxin Island Tribal Court of Appeals

Appellant's Counsel: James L. Gress
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Respondent's Counsel: Cina Littlebird and Jennifer Yogi
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Ms. Yogi: (206) 464-1519

3. *In Re Anderson*, 18 NICS App. 13 (April 2020) – Squaxin Island Tribal Court of Appeals

Appellant's Counsel: James L. Gress
Gress, Clark, Young and Schoepper
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Ms. Yogi: (206) 464-1519

Counsel for the Squaxin Island Tribe, Amicus Curiae:

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3711 Southeast Old Olympic Highway
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(360) 432-1771, extension 2

Opinions to which I contributed:

4. *Port Gamble S'Klallam Tribe et al. v. Lexington Insurance Company et al.*,
Case No. POR-AP-2021-0001, 21 NICS App. __ (April 28, 2021) – Port
Gamble S'Klallam Tribal Court of Appeals

Appellants' Counsel: Lexington Insurance Company

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Hallmark Specialty Insurance and Aspen Specialty
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Ms. Pfeifer: (612) 492-6947
Mr. Weingold: (303) 629-3425

5. *In Re Welfare of M.G.G.*, Case No. 2020-001-AP-IC, 18 NICS App. (February 10, 2020) (unreported) – Kalispel Tribal Court of Appeals

A copy of the Court of Appeals' opinion in this case is supplied.

Appellant's Counsel: Jerald Conner Sabin and Ashley Stetson
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Ms. Stetson: (509) 789-7608

Respondent's Counsel: Elizabeth R. Tereno

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(509) 720-6999

6. *Teeman v. Dick*, Case No. PR-001-17, 15 NICS App. (May 23, 2017)
(unreported) – Burns Paiute Tribal Court of Appeals

A copy of the Court of Appeals' opinion in this case is supplied.

Appellant Teeman represented herself *pro se*.

Respondent did not appear in the appeal.

7. *Shoalwater Bay Indian Tribe v. Shipman*, Case No. SHO-2015-CV-HS-0034,
12 NICS App. 65 (February 22, 2016) (unreported) – Shoalwater Bay Tribal
Court of Appeals

A copy of the Court of Appeals' opinion in this case is supplied.

Appellant's Counsel: Tim Rybka
Prosecutor, Shoalwater Bay Tribe
P.O. Box 2733
Ferndale, WA 98248-2733
(360) 318-4864

Respondent's Counsel: A lay spokesperson represented Mr. Shipman.

8. *In Re A.A.F.*, 13 NICS App. 28 (July 2015) – Port Gamble S'Klallam Tribal
Court of Appeals

Appellant's Counsel: Brian Kilgore
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(360) 716-4785

David Howard
500 Yale Avenue North, Suite 140
Seattle, WA 98109-5680
(206) 234-7750

Respondent's Counsel: Mr. Fulton represented himself *pro se*.

Counsel for Intervenor-Appellant Port Gamble S'Klallam Tribe:

Tim Rybka

Prosecutor, Port Gamble S’Klallam Tribe
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Ferndale, WA 98248-2733
(360) 318-4864

9. *In re the Custody of P.M.*, 12 NICS App. 76 (July 2014) – Port Gamble S’Klallam Tribal Court of Appeals

The parties appeared *pro se* in this appeal.

10. *In re the Welfare of J.J.*, Case No. MUC-AP-12/13-125, 12 NICS App. 95 (May 21, 2014) (unreported) – Muckleshoot Tribal Court of Appeals

A copy of the Court of Appeals’ opinion in this case is supplied.

Appellant’s Counsel: Appellant C.R.J. represented himself *pro se*.

Respondent’s Counsel: Annie Harlan
Prosecutor, Muckleshoot Indian Tribe
3815 South Othello Street, Suite 100
Seattle, WA 98118-3510
(253) 220-7710

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

In all tribal courts in which I served as an appellate judge, there has been no reviewing court above the immediate appeals court.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

In all tribal courts in which I served as an appellate judge, there has been no reviewing court above the immediate appeals court.

- 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.

Unpublished opinions have been issued in five (45%) of my decisions. The Northwest Intertribal Court System files and stores unpublished opinions for ten years from the date of the opinion. After ten years, the unpublished opinions are destroyed. Summaries of unpublished decisions are included in the Northwest Intertribal Court System’s “Notations of Orders in Unreported Cases.” *See, e.g.*,

Shoalwater Bay Indian Tribe v. Zirbel, Case No. SHO-2013-CV-HS-0023, 12 NICS App. 97 (December 1, 2014) (unreported), available at <https://www.codepublishing.com/WA/NICS/?12NICSApp/12NICSApp095.html>. Copies of unpublished opinions are also provided to the applicable tribal court. Tribal courts store such records in accordance with their respective policies.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

I have not authored opinions on federal or state constitutional issues. Tribal court matters generally address questions of tribal law.

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

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

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

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

I have assessed the necessity or propriety of recusal based on applicable law, including but not limited to the Northwest Intertribal Court System Standards for Judicial Conduct, applicable tribal code, and precedent. To avoid actual and perceived conflicts of interest, I have instructed the Northwest Intertribal Court System that I will not hear cases for any tribal court of a tribe that is a client of my law firm, regardless of whether the tribe is a party or is otherwise involved in the appeal.

I have been asked to recuse myself in one case. In *Port Gamble S'Klallam Tribe et al. v. Lexington Insurance Company, et al.*, Case No. POR-AP-2021-0001 (Port Gamble S'Klallam Tribal Court of Appeals), certain appellants requested my recusal after the appellate panel provided a notice to the parties disclosing that two of the panelists' law firms were handling matters in which one or more of the parties to the appeal was an adverse party. The notice informed the parties that the panelists did not believe that the disclosed matters affected their impartiality but were providing the disclosure in the interests of transparency and promoting confidence in the integrity and impartiality of the judiciary of the Northwest Intertribal Court System and its member tribes. The notice invited any party who believed there was a basis for recusal under applicable law to file a motion requesting recusal.

Hallmark Specialty Insurance Company, Aspen Specialty Insurance Company, and Aspen Insurance UK, Ltd. subsequently filed a motion requesting my recusal on the bases that (1) I am a citizen of a tribe that was engaged in litigation with the movants in a separate forum; and (2) attorneys at my firm were handling matters adverse to Aspen Specialty Insurance Company. After reviewing applicable law, including the Northwest Intertribal Court System Standards for Judicial Conduct, the Port Gamble S'Klallam Law and Order Code, and relevant precedent, and after conferring with the other two panelists, I voluntarily recused myself out of an abundance of caution regarding whether my impartiality might reasonably be questioned due of my firm's involvement in matters adverse to Aspen Specialty Insurance Company. The panel rejected the movants' argument that I was required to recuse on the basis that I am a citizen of a tribe engaged in litigation with movants in a different forum in Oklahoma, holding that such facts failed to establish a reasonable basis to question my impartiality under applicable law.

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.

I have never been a candidate for or held an elected public office. I have held the following appointed positions:

Member of the Mvskoke Reservation Protection Commission, August 2020 to present. Appointed in August 2020 by Muscogee (Creek) Nation Principal Chief David Hill.

Commissioner on the Washington State Gambling Commission, June 2020 to present. Appointed in June 2020 by Washington State Governor Jay Inslee.

- 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 did not serve as a clerk to a judge.

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

I have not practiced alone.

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

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2010 – 2012
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2012 – present
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Principal (2019 – present)
Member (2016 – 2019)
Of Counsel (2015 – 2016)
Associate (2012 – 2014)

2013 – present

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Pro Tem Appellate Judge

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

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

During my first year of practice from 2008 to 2009, I practiced in both transactional work and litigation. My transactional work consisted of licensing, copyright, and trademark work, including filings in the Trademark Trial and Appeal Board. My litigation work consisted of complex commercial litigation cases.

From 2010 to the present, I have had a diverse litigation practice, including construction litigation, treaty rights disputes, litigation before the Patent Trial and Appeal Board, commercial contract disputes, and complex litigation involving federal laws on historic preservation, tribal landholdings, and repatriation of Native American remains and other funerary items. I have written pleadings, briefs, motions, and research memoranda. I have conducted depositions, hearings, a trial, and oral arguments, including appellate arguments. My complex litigation practice has included litigation in various jurisdictions, including federal courts in Alabama, Michigan, and Washington State, state courts in Washington State, and a tribal court in Washington State. Since 2012, I have served as lead attorney on most of my cases, and have represented clients through discovery, pre-trial motions, trial, appeals, and remand.

Additionally, between 2012 and 2014, I built a transactional practice alongside my litigation work. My transactional work consisted of drafting and negotiating agreements and advising clients on legal issues in the mobile gaming industry. I continue to do some transactional work for clients, but my practice has largely been concentrated in litigation.

From 2013 to the present, I have served as an appellate court judge for the Northwest Intertribal Court System.

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

From 2008 to the present, my typical clients have been Indian tribes, technology companies, retailers, game developers, app analytics companies, municipalities, small and mid-size companies, and manufacturers.

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

From 2010 to the present, my practice has consisted almost entirely of litigation. I prepared motions and briefs, took and defended depositions, presented oral argument, and appeared occasionally in court, including first-chairing a 23-day trial.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 80% (approximate)
- 2. state courts of record: 15% (approximate)
- 3. other courts: 5% (approximate)
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 99% (approximate)
- 2. criminal proceedings: 1% (approximate)

- 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 one case in courts of record to verdict, judgment, or final decision. I tried this 23-day trial as chief counsel.

- i. What percentage of these trials were:

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

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

I filed a brief in opposition to certiorari, 2018 WL 3740577, as counsel of record in *Makah Indian Tribe v. Quileute Indian Tribe et al.*, 139 S. Ct. 106 (2018) (cert.

denied).

In *Herrera v. Wyoming*, No. 17-532 (Sept. 11, 2018) I assisted in drafting an amicus brief in support of petitioner, 2018 WL 4381215, on behalf of the Quileute Tribe.

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. *Muscogee (Creek) Nation et al. v. Poarch Band of Creek Indians*, No. 2:12-cv-1079-MHT-CSC, 2021 WL 961743 (M.D. Ala. Mar. 15, 2021) (Thompson, J.)

I have represented Plaintiffs Muscogee (Creek) Nation, Hickory Ground Tribal Town, and Mr. Thompson in this case from 2017 until present.

In 2012, Plaintiffs Muscogee (Creek) Nation, Hickory Ground Tribal Town, and Mr. Thompson filed a lawsuit alleging that the Poarch Band of Creek Indians and its officials and the United States and its officials, among other parties, violated numerous federal laws (the National Historic Preservation Act, Archaeological Resources Protection Act, Native American Graves Protection and Repatriation Act, and the Indian Reorganization Act, among others) when the United States permitted the Poarch Band to exhume over 55 Muscogee (Creek) ancestors in order to build a casino over a site that is sacred to the Muscogee (Creek) Nation. I have served as lead counsel for Plaintiffs since 2017. In that role, I have drafted and filed a second amended complaint and an associated motion for leave to file that complaint, drafted responses to three motions to dismiss, managed new issues that have arisen under the Native American Graves Protection and Repatriation Act, and managed settlement discussions among the parties. On March 15, 2021, the district court issued an order finding that although the plaintiffs established a basis to sue the tribal defendants under the *Ex Parte Young* doctrine, a narrow and limited exception applied to that doctrine that preserved the sovereign immunity of the tribal defendants. Due to the immunity of the tribal defendants and the court's finding that the tribal defendants were indispensable to the case, the court dismissed the case. The case is now on appeal to the Eleventh Circuit.

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2. *State of Washington, et al. v. Fairweather, et al.*, No. C21-0002-JCC, 2021 WL 568267 (W.D. Wash. Feb. 16, 2021) (Coughenour, J.)

I have represented the Quileute Tribe in this case since its inception in January 2021.

Joined by the State of Washington, numerous other federally recognized Indian tribes, and other plaintiffs, the Quileute Tribe filed a lawsuit against the Director of the Office of Management and Budget, the Archivist of the National Archives and Records Administration, the Executive Director of the Public Buildings Reform Board, the Administrator of the General Services Administration, the National Archives and Records Administration, the Office of Management and Budget, the Public Buildings

Reform Board, and the General Services Administration, challenging the federal government's expedited sale of the National Archives building in Seattle. The lawsuit asserts that the sale violates the federal government's consultation obligations and the conditions Congress placed on agencies' ability to sell federal properties on an expedited basis. I drafted and edited portions of the complaint and subsequent briefing. On February 16, 2021, the district court granted the plaintiffs' motion for a preliminary injunction, blocking the sale of the National Archives building in Seattle. On April 8, 2021, the Office of Management and Budget announced that it was withdrawing its approval of the sale of the National Archives building in Seattle, and that any effort to sell the facility in the future must be preceded by meaningful and robust tribal consultation and must proceed through the appropriate administrative process. The case is currently stayed.

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3. *Makah v. Franz et al.*, No. 54945-0-II (Wash. Ct. App. Div. II) (Sutton, Cruser, Glasgow, JJ.)

I have represented the Quileute Tribe in this matter from 2020 to present.

The Makah Tribe filed a complaint against the Washington State Department of Natural Resources and its Director challenging the Department's land exchanges on the Olympic Peninsula in Washington State under the Washington State Environmental Policy Act and the Public Lands Act. The Makah Tribe claimed that the exchanges would prevent it from exercising treaty hunting rights in certain exchange areas. The trial court granted the Defendant Department of Natural Resources' motion to dismiss, and the Makah Tribe appealed. At the court of appeals, I filed a brief and presented oral argument on behalf of the Quileute Tribe as amicus curiae and on behalf of two other amici curiae, the Hoh Tribe and Quinault Indian Nation. The amici curiae tribes argued that, because the Makah Tribe's challenge to the land exchanges depended on a predicate finding that it had treaty hunting rights in areas where the amici curiae tribes possessed hunting rights, and because the amici curiae tribes possessed sovereign immunity, the case must be dismissed for failure to join indispensable parties. The court has not yet issued a decision on the Makah Tribe's appeal.

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4. *United States v. Michigan*, No. 73-cv-00026 (W.D. Mich.) (Maloney, J.)

I have represented Intervenor Plaintiff Sault Ste. Marie Tribe of Chippewa Indians from January 2020 to present in this case.

I represent the Sault Ste. Marie Tribe of Chippewa Indians in this 40-year-old treaty fishing rights case. Since 1985, the parties have entered into consent decrees of 15- to 20-year durations governing state and tribal fishing in treaty waters. The United States, Michigan, and five tribes are currently engaged in negotiations with a court-appointed facilitative mediator to establish a third consent decree governing state and tribal fishing in Lake Michigan, Lake Huron, and Lake Superior. I am the lead attorney in these negotiations, and I also drafted and filed motions and responses on behalf of the Sault Ste. Marie Tribe opposing extension of the 2000 decree because the equitable allocation doctrine prevented extension of the decree as written. The court held that the equitable allocation doctrine did not prevent it from extending an existing decree during the pendency of negotiations. Dkt. 1892 (July 24, 2020).

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5. *United States v. Washington*, 129 F. Supp. 3d 1069, 1073 (W.D. Wash. 2015), *aff'd sub nom. Makah Indian Tribe v. Quileute Indian Tribe et al.*, 873 F.3d 1157 (9th Cir. 2017), *cert. denied*, 139 S. Ct. 106 (2018).

I represented the Quileute Tribe, one of the defendants in this case, from April 2012 until the end of the case in 2020.

Courts and Judges:

United States District Court for the Western District of Washington
Judge Ricardo S. Martinez

Ninth Circuit Court of Appeals

First appellate panel:

Judge Richard A. Paez
Judge Jay S. Bybee
Judge Consuelo Callahan

Second appellate panel:

Judge M. Margaret McKeown
Judge Michael Daly Hawkins
Judge Elizabeth Erny Foote (Western District of Louisiana, sitting by designation)

Third appellate panel:

Judge M. Margaret McKeown
Judge Michael Daly Hawkins
Judge Jacqueline Hong-Ngoc Nguyen

Supreme Court of the United States

This case was a subproceeding within *United States v. Washington*, a 50-year-old treaty fishing rights case. In 2009, the Makah Tribe filed a Request for Determination asking the court to adjudicate the western boundaries of the Pacific Ocean treaty fishing areas of my client, the Quileute Tribe, and of the Quinault Indian Nation, and the northern boundary of the Quileute Tribe's Pacific Ocean treaty fishing area. To establish such areas, the Quileute Tribe and Quinault Nation were required to prove where they customarily fished in the Pacific Ocean in 1855, at the time they executed their treaty with the United States. In April 2012, the Quileute Tribe and Quinault Nation appealed the district court's order on summary judgment holding that the tribes did not have sovereign immunity from Makah's request. I briefed this appeal on behalf of the Quileute Tribe and argued on its behalf at the Ninth Circuit. The case was not stayed pending appeal, so the district court proceeded to trial. In 2015, I chaired a 23-day trial on behalf of the Quileute Tribe. This was the longest treaty rights trial ever in the Western District of Washington. Sixteen sovereigns participated in the case, including 14 Indian tribes, Washington State, and the United States. The case involved nine expert witnesses, two lay witnesses, and 472 admitted exhibits comprising thousands of pages. The district court determined that the Quileute Tribe and Quinault Nation understood their treaty right to take "fish" in their customary fishing places to include whales and seals, such that evidence of treaty-time whaling and sealing could be used to establish the tribes' treaty fishing areas. The district court held that the Quileute Tribe and Quinault Nation customarily fished 40 and 30 miles offshore, respectively, and they therefore have treaty rights to continue fishing there today for subsistence and commercial purposes. The district court used longitudinal lines to delineate these boundaries. The district court also

held that the northern boundary of the Quileute Tribe's Pacific Ocean treaty fishing area is west of a point named Cape Alava. The Quileute Tribe and Quinault Nation voluntarily withdrew their pending Ninth Circuit appeal following the district court's decision in July 2015. The Makah Tribe and Washington State appealed the district court's decision to the Ninth Circuit. These appeals were consolidated. I briefed this appeal (including briefing in response to the petition for rehearing) on behalf of the Quileute Tribe, and argued on its behalf and on behalf of the Quinault Indian Nation at the Ninth Circuit. Eleven other tribes submitted briefs as Real Parties in Interest (the district court uses an "Interested Party" designation in *United States v. Washington* that is not available at the Ninth Circuit). In October 2017, the Ninth Circuit affirmed the district court on all matters except how it delineated the Quileute Tribe's and Quinault Nation's western boundaries. The Ninth Circuit remanded the case to the district court for revised boundaries that were more tailored to the district court's factual findings. The Makah Tribe filed a petition for rehearing and rehearing en banc, which the Ninth Circuit denied in January 2018. The Makah Tribe filed a petition for certiorari to the Ninth Circuit in May 2018, and Washington State supported the petition. I wrote and filed a brief in opposition to the petition on behalf of the Quileute Tribe and the Quinault Nation. In October 2018, the Supreme Court denied certiorari. In the meantime, on remand, the district court had issued a decision delineating the western boundaries by precisely tracing the coastline 40 and 30 miles offshore. The Quileute Tribe and Quinault Nation appealed this decision to the Ninth Circuit in May 2018. I briefed this appeal on behalf of the Quileute Tribe. In September 2019, the Ninth Circuit panel filed a memorandum disposition affirming the district court. The Ninth Circuit denied the Quileute Tribe and Quinault Nation's petition for rehearing and rehearing en banc in June 2020.

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6. *Skytec, Inc. v. Logistic Sys., Inc.*, No. 3:15-cv-02104-BJM, 2018 WL 4372726 (D.P.R. Sept. 12, 2018) (McGiverin, J.)

I represented Defendant Logistic Systems, Inc. in this case from its inception in 2012 until the end of the case in 2019.

Logistic Systems, Inc., a Montana company, contracted with Skytec, Inc. to develop and implement various dispatch, geographic information, and records systems for Skytec's clients—public safety agencies in Puerto Rico. In 2012, Skytec filed a lawsuit against

Logistic Systems in the United States District Court for the District of Puerto Rico. Logistic Systems filed counterclaims against Skytec. Each party alleged breach of contract, and Skytec also alleged breach of Puerto Rico's Dealer's Act. I drafted pleadings, discovery requests and responses, and briefs on behalf of Logistic Systems. I also managed communications regarding discovery requests, responses, and disputes with Skytec's counsel. After protracted discovery disputes, the court granted Logistic Systems' motion for entry of default judgment in light of Skytec's misconduct in the discovery process.

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7. *United States v. Washington, Subproceeding 91-1*, No. C70-9213RSM (W.D. Wash.)
(Martinez, J.)

I have represented the Quileute Tribe in this subproceeding from 2010 until present.

This *United States v. Washington* subproceeding has involved disputes among thirteen Indian tribes regarding inter-sovereign allocation and management of the commercial tribal halibut fishery in Puget Sound, the Straits of Juan de Fuca, and the Pacific Ocean since 1991. I have served as lead counsel for the Quileute Tribe in this matter since 2010. In this role, I have drafted numerous motions and briefs, presented numerous oral arguments, and represented the Quileute Tribe in weeks-long settlement proceedings with Magistrate Judge Brian Tsuchida. In 2012, following briefing and oral argument regarding six competing proposals for management of the commercial tribal halibut fishery in Puget Sound, the Straits of Juan de Fuca, and the Pacific Ocean, the district court denied all parties' motions and instead issued an order adopting new management measures that were agreed upon at a prior settlement conference. *United States v. Washington*, 20 F. Supp. 3d 899, 967 (W.D. Wash. 2008) (this is a compilation of various orders in *United States v. Washington*; although it is dated 2008, it encompasses the court's 2012 decision). In 2017, a dispute regarding those management measures arose at the beginning of the halibut season. I drafted, filed, and argued a motion for a temporary restraining order on behalf of the Quileute Tribe, and the court granted the motion. *United States v. Washington*, No. C70-9213RSM, 2017 WL 1064460 (W.D. Wash. Mar. 21, 2017).

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8. *Schuyler v. Unsworth & Dept. of Fish and Wildlife*, No. 14-2-02373-9 (Thurston County Sup. Ct.)

I represented the Quileute Tribe as one of six amici curiae tribes in this case from 2014 to 2016.

Court and Judges:

Thurston County Superior Court
Judge Erik D. Price (until December 2015)
Judge Ann Hirsch (January 2016 to October 2016)

Plaintiff Schuyler, a member of the Upper Skagit Tribe, sought a declaratory ruling that the Upper Skagit Tribe had treaty hunting rights in the ceded area of Intervenor-Defendant Yakama Nation. The parties (Plaintiff Schuyler, Defendant Washington State, Defendant Director of the Washington State Fisheries and Wildlife Department Unsworth, and Intervenor-Defendant Yakama Nation) and amici curiae (the Quileute Tribe, Hoh Tribe, Quinault Indian Nation, Port Gamble S'Klallam Tribe, Jamestown S'Klallam Tribe, and Sauk Suiattle Indian Tribe) disputed what evidence could be considered in determining a tribe's treaty hunting area. The parties and amici curiae also disputed whether the case could be adjudicated in the absence of the Upper Skagit Tribe.

I filed various amici curiae briefs on behalf of the Quileute Tribe and presented oral arguments on behalf of the Quileute Tribe, Quinault Indian Nation, and Hoh Tribe. Although the court ultimately dismissed the case for failure to join the Upper Skagit Tribe, Washington State used the briefing the amici curiae submitted in developing its standards to evaluate treaty hunting areas.

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9. *ABB, Inc. Petitioner v. Roy-G-Biv Corp. Pat. Owner*, No. Patent 6,513,058 B2, Cases IPR2013-00062; IPR2013-00282; 2014 WL 2112556 (P.T.A.B. May 16, 2014); *ABB Inc. Petitioner v. Roy-G-Biv Corp. Pat. Owner*, No. Patent 8,073,557 B2; Cases IPR2013-00074; IPR2013-00286; 2014 WL 1478219 (P.T.A.B. Apr. 11, 2014)

I represented the ROY-G-BIV Corporation in these matters from 2013 to 2014.

Court and Judge:

Patent Trial and Appeal Board
Administrative Patent Judges Thomas L. Giannetti, Jennifer S. Bisk, and Jeremy M. Plenzler

ABB, Inc. filed two separate petitions for *Inter Partes* Review of patents owned by the ROY-G-BIV Corporation. With co-counsel, I represented the ROY-G-BIV Corp. in these matters, which involved patents related to motion control software that ABB sought to invalidate on multiple grounds. I worked with co-counsel on discovery requests and responses, drafting briefs, and preparing for oral arguments. I worked with the inventor and several expert witnesses on issues of alleged obviousness and prior art. Giving significant weight to expert testimony, the Patent Trial and Appeal Board held that ABB failed to prove that any of the challenged claims in any of the patents were unpatentable. This was the first *Inter Partes* Review trial to result in confirmation and survival of all challenged claims.

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10. *Skokomish v. Goldmark*, 994 F. Supp. 2d 1168 (W.D. Wash. 2014) (Robart, J.)

I represented the Quileute Tribe in this matter from 2013 to 2014.

The Skokomish Tribe filed a lawsuit seeking a declaratory judgment determining the nature and scope of its treaty hunting rights. The Quileute Tribe participated in this case

as amicus curiae in lieu of intervening, seeking dismissal of the Skokomish Tribe's lawsuit due to failure to join the Quileute Tribe and other tribes whose treaty hunting rights would be affected by a ruling in favor of the Skokomish Tribe. I drafted various amicus briefs on behalf of the Quileute Tribe, as well as a motion to strike part of a Skokomish pleading, which the court granted. The district court dismissed the case on the basis that granting relief to the Skokomish Tribe would necessarily violate the treaty rights of absent tribes.

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

From 2013 to present, I have defended the treaty hunting rights of my client, the Quileute Tribe, and of two other signatory tribes to the same treaty (the Hoh Tribe and Quinault Indian Nation) (the "Treaty of Olympia Tribes") in an agency proceeding adverse to the

Lower Elwha Klallam Tribe, Port Gamble S’Klallam Tribe, and the Jamestown S’Klallam Tribe (the “S’Klallam Tribes”). The State of Washington applies state hunting laws to tribal members hunting outside of their treaty hunting areas. In late 2013, the S’Klallam Tribes and the Washington State Department of Fish and Wildlife (“WDFW”) executed Memoranda of Understanding permitting the S’Klallam Tribes to exercise treaty hunting in portions of the Treaty of Olympia Tribes’ treaty hunting area. The Memoranda of Understanding were executed without notifying the Treaty of Olympia Tribes. In July 2014, after repeated protests from the Treaty of Olympia Tribes and others, Governor Jay Inslee directed WDFW to provide due process to adversely affected tribes. Subsequently, the S’Klallam Tribes produced two expert reports, and the Treaty of Olympia Tribes produced three expert reports and legal analyses of the S’Klallam Tribes’ assertions. I drafted the legal analyses on behalf of the Treaty of Olympia Tribes and worked with the expert anthropologists to produce their reports and supporting evidence. WDFW and its expert anthropologist reviewed the S’Klallam Tribes’ evidence, conducted their own investigation, and in two separate reports concluded that the S’Klallam Tribes failed to establish any treaty hunting rights in the Treaty of Olympia Tribes’ treaty ceded area.

I have not performed any lobbying activities 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.

I taught at the Seattle University School of Law as an adjunct professor during the Spring Semester of 2020. The course, entitled “Federal Indian Law,” is an introductory course that teaches the basic concepts of federal Indian law. Syllabus supplied.

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.

Under my Shareholder agreement with Foster Garvey, P.C., upon my resignation from the firm, I will receive my final compensation payment commensurate with my budgeted share for 2021 (based on my performance, percentage interest in the firm compensation, and the months with the firm during that year), and my share (based on my percentage interest in the firm) of the firm’s capital account. Under the Shareholder agreement, my contributed capital is paid out over a three-year period; the Executive Committee has the discretion to expedite the capital payback, and if confirmed I would ask the Executive Committee to expedite my capital return in order to eliminate any ongoing financial interest in the firm.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments,

or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I do not have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the court.

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).

My Financial Disclosure Report is being filed with the Administrative Office of U.S. Courts and I will supplement this Questionnaire with a copy of that Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse in any litigation where I have ever played a role, including cases I handled or that were handled by my firm while I was associated with it. I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action with the advice of parties and their counsel, including recusal where necessary.

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

I will handle all matters involving actual or potential conflicts of interest through diligent and careful application of Canon 3 of the Code of Conduct for United States Judges, 28 U.S.C. § 455, and any and all other laws, rules, and practices governing conflicts of interest. I will also consult with the Administrative Office of the United States Courts for additional guidance.

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.

Throughout my career, I have dedicated time to serving the disadvantaged.

Since 2015, I have volunteered my time to serving on the board of the Northwest Tribal Court Judges Association, which strives to increase access to justice for the disadvantaged, including by promoting communication and cooperation between tribal, state, and federal court systems. As part of my work on the board of the Northwest Tribal Court Judges Association, we have coordinated regular meetings between tribal court and state court judges at the Washington State Courts Annual Judicial Conference and Tribal State Court Consortium meetings to conduct trainings and discuss how to address interjurisdictional problems preventing such access. My service to the Northwest Tribal Court Judges Association involves a few hours of work every month.

From 2017 to 2019, I volunteered my time to serving on the board of the Seattle Indian Health Board, a community health center located in Seattle’s International District. The Seattle Indian Health Board’s mission is to advocate for, provide, and ensure culturally appropriate, high quality, and accessible health and human services to American Indians and Alaska Natives. One of the organization’s top goals is to increase access to healthcare for the disadvantaged; the organization serves all patients and offers discounted fees to those who qualify. My service to the Seattle Indian Health Board involved several hours of work each month.

From 2010 to 2016, I volunteered my time to serving on the board of the Northwest Indian Bar Association. One of the Northwest Indian Bar Association’s purposes and goals is to encourage and promote pro bono legal work and civic involvement that benefits Indian people on reservations and in urban areas throughout the Pacific Northwest. During my time serving on the Northwest Indian Bar Association, the board helped secure funding and legal volunteers for the Urban Indian Legal Clinic, which provided free legal advice and referrals for a wide range of legal issues to Native Americans. The Northwest Indian Bar Association also provided annual scholarships for Native law students, a traditionally underrepresented demographic in the legal profession. My service to the Northwest Indian Bar Association involved several hours of work each month.

From 2012 to 2015, I performed pro bono work for the Indian Arts and Crafts Project in Washington State. The Project’s goal was to design and implement a certification mark program to protect Native artisans’ intellectual property in cooperation with the Northwest Justice Project and American Friends Service Committee.

In 2013, I performed pro bono work for the Northwest Intertribal Court System to facilitate litigants’ access to court opinions of tribal courts within the Northwest Intertribal Court System. I negotiated an Indexing Services Agreement for publishing and indexing tribal court opinions online.

Finally, during each winter break during law school, I volunteered my time to providing pro bono legal services. During the 2005 to 2006 academic year winter break, I provided pro bono legal services to North American Indian Legal Services. During the 2006 to 2007 academic year winter break, I provided pro bono legal services to the Peacekeepers Domestic Violence Program. During the 2007 to 2008 academic year winter break, I provided pro bono legal services to the Lummi Nation Prosecutor's Office.

26. **Selection Process:**

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

On December 10, 2020, Senators Murray and Cantwell published an "Announcement of Judicial Appointments to the United States District Court for the Western District of Washington." The Announcement stated that the Senators had engaged a bipartisan committee to screen and interview candidates, and directed individuals who were interested in being considered for appointment to any of the five vacant positions on the federal bench in the Western District of Washington to submit an application to the committee by January 4, 2021.

On January 4, 2021, I submitted an application to the committee. On February 11, 2021, I interviewed with the committee. On February 16, 2021, I received a notification from the committee chairs that I had been recommended to Washington State's Senators for their consideration. I interviewed with Senator Murray's staff on February 23, 2021 and spoke with Senator Murray on March 8, 2021. I interviewed with Senator Cantwell's staff on February 26, 2021. On March 8, 2021, Senator Murray's staff informed me that the Senators had recommended my name along with six others for the vacancies.

On March 8, 2021, I was contacted by attorneys from the White House Counsel's Office to schedule an interview. On March 9, 2021, I interviewed with attorneys from the White House Counsel's Office. Since then, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 12, 2021, 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.