

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

John Wesley Broomes

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

United States District Judge for the District of Kansas

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.

Hinkle Law Firm LLC
1617 North Waterfront Parkway, Suite 400
Wichita, Kansas 67206

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

1969; New Orleans, Louisiana

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.

2000 – 2002 Washburn University School of Law; J.D., 2002
1987 – 1991 University of Texas at Austin; B.S. in Petroleum Engineering, 1991
1991 Delgado Community College; No Degree
1991 Austin Community College; 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.

2007 – Present
Hinkle Law Firm LLC
1617 North Waterfront Parkway, Suite 400
Wichita, Kansas 67206

Member (Partner), 2010 to Present
Associate, 2007 to 2010

2003 – 2006

United States District Court, District of Kansas
401 North Market, Suite 111
Wichita, Kansas 67202

Law Clerk to United States District Judge Monti L. Belot, 2003 to 2006
Law Clerk to United States Magistrate Judge Donald W. Bostwick, 2003

1997 – 2000

Koch Industries, Inc.
4111 North 37th Street East
Wichita, Kansas 67220
Laboratory Manager, 2000
Project Manager, 1997 to 2000

1997

Omnipoint Communications, Inc.
1833 East Industrial Street
Wichita, Kansas 67220
Project Manager

1996 – 1997

Castle Rock Ranch, Inc.
14500 Sport of Kings Court
Wichita, Kansas 67230
Engineer; Ranch Supervisor

1991 – 1996

United States Navy
Lieutenant, Submarine Officer

Other Affiliations (Uncompensated)

1991 – 2000

Castle Rock Ranch, Inc.
14500 Sport of Kings Court
Wichita, Kansas 67230
Director, 1991 to 2000
Secretary/Treasurer, 1991 to 1992
Treasurer, 1993 to 1996

1996

Savanna East Homeowners' Association
14500 Sport of Kings Court

Wichita, Kansas 67230
President and Chairman

1996
Savanna West Homeowners' Association
14500 Sport of Kings Court
Wichita, Kansas 67230
President and Chairman

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.

1991 – 1996
United States Navy
Lieutenant, Submarine Officer
U.S.S. Hammerhead (SSN 663), 1993 to 1995
U.S.S. Tennessee (SSBN 734), 1995 to 1996
Honorable Discharge, 1996

1996 – 1999
United States Naval Reserve (Inactive)
Lieutenant
Honorable Discharge, 1999

I registered for 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.

Washburn University School of Law
J.D., summa cum laude, 2002
John F. Kuether Award for Best Student Note, Washburn Law Journal, 2002
Certificate in Natural Resource Law, 2002
Full scholarship, 2000 to 2002
Joe Rudd Scholarship, awarded by Rocky Mountain Mineral Law Foundation,
2001 to 2002

Navy and Marine Corps Commendation Medal, 1996

Navy and Marine Corps Achievement Medal, Three Awards, 1993 to 1995

L.Y. Spear Award for Top Graduate, Submarine Officer's Basic Course, 1993

University of Texas at Austin

B.S., with high honors, 1991

Naval ROTC Four-Year Scholarship, 1987 to 1991

Naval ROTC Battalion Commander, 1991

H. Malcolm Macdonald Award for Outstanding Achievement, Naval ROTC Unit, 1991

Alex H. Massad Endowed Presidential Scholarship, 1990

Pi Epsilon Tau, Petroleum Engineering Honor Society, 1988 to 1991

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.

Kansas Bar Association

Past President – Oil, Gas, and Mineral Law Section, 2015 to 2016

President – Oil, Gas, and Mineral Law Section, 2014 to 2015

President-Elect – Oil, Gas, and Mineral Law Section, 2013 to 2014

Executive Committee Member at Large, 2010 to 2013

Wichita Bar Association

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.

Kansas, 2003

Texas, 2009

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 Court of Appeals for the Tenth Circuit, 2011

United States District Court, District of Kansas, 2003

United States District Court, Eastern District of Texas, 2010

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.

Four Oaks Homeowners Association, 2009 to Present
Home School Legal Defense Association, 1999 to Present
Kansas Independent Oil & Gas Association, 2015 to Present
National Rifle Association, 2001 to 2007
New Hope Bible Church, 2003 to 2009; 2014 to Present
Northside Bible Chapel, 2009 to 2014
Rocky Mountain Mineral Law Foundation, 2007 to Present
Savanna East Homeowners Association, 1996 to 2000; 2003 to 2005
USA Archery, 2015 to Present
Wichita Shooting Stars Archery Club, 2015 to Present

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

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

12. Published Writings and Public Statements:

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

Co-author of Oil, Gas, and Mineral Law Chapter of Kansas Annual Survey of the Law, 2007 to 2017. Copy supplied.

Waste Not, Want Not: The Marketable Product Rule Violates Public Policy Against Waste of Natural Gas Resources, 63 U. Kan. L. Rev. 149 (2014). Copy supplied.

Spinning Straw Into Gold: Refining and Re-Defining Lease Provisions for the Realities of Resource Play Operations, 57 Rocky Mtn. Min. L. Inst. 26-1 (2011).

Copy supplied.

Contributing author to Kansas Bar Association's Oil, Gas, and Mineral Law Section Newsletter (2010). Copy supplied.

John W. Broomes & David E. Pierce, Basic Contract Principles Impacting Exploration Projects, Paper presented at the Rocky Mountain Mineral Law Foundation conference on Oil and Gas Agreements: The Exploration Phase, Houston, Texas (2010). Copy supplied.

Steve Allton & John W. Broomes, What Constitutes Excusable Neglect? A Guide for the Kansas Federal & State Practitioner, 77 J. Kan. Bar Ass'n 6 (May 2008). Copy supplied.

Wrestling with a Downhole Dilemma: Subsurface Trespass, Correlative Rights, and the Need for Hydraulic Fracturing in Tight Reservoirs, 53 Rocky Mtn. Min. L. Inst. 20-1 (2007). Copy supplied.

Note, Maintaining Honor in Troubled Times: Defining the Rights of Terrorism Suspects Detained in Cuba, 42 Washburn L.J. 107 (2002). Copy supplied.

Comment, Navigating in Isolated Waters: Section 404 of the Clean Water Act Revisited [*Solid Waste Agency of N. Cook County v. U. S. Army Corps of Eng'rs*, 531 U.S. 159 (2001)], 41 Washburn L.J. 209 (2001). Copy supplied.

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

I have not prepared any reports, memoranda, or policy statements on behalf of any organization or bar association.

- 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.

E-mail to certain Kansas state legislators urging revision to service-by-publication provisions of K.S.A. 55-201 (Feb. 14, 2012). 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.

February 27, 2015: Panelist, Short Course on How to Negotiate, Document, and Administer the Purchase and Sale of Oil & Gas Assets, Washburn University School of Law, Topeka, Kansas. Outline supplied.

October 17, 2014: Moderator, 39th Annual Kansas Bar Association/Kansas Independent Oil and Gas Association Oil and Gas Conference, Wichita, Kansas. As president of the Oil, Gas, and Mineral Law Section of the Kansas Bar Association, I introduced each of the speakers during the conference. I have no notes, transcript, or recording. The address for the Kansas Bar Association is 1200 Southwest Harrison Street, Topeka, Kansas 66612.

August 17, 2014: Speaker, Common Law Issues Associated with Horizontal Drilling, Oil and Gas Regulatory Course, Wichita, Kansas. Notes supplied.

January 15, 2014: Speaker, Introduction to the Oil & Gas Lease; Introduction to Mineral Title Examination Course, Washburn University School of Law, Topeka, Kansas. This was a three-day inter-session course prepared by Professor David E. Pierce. I taught the oil and gas lease topic on the afternoon of the first day using slides prepared by Professor Pierce. Notes supplied.

October 18, 2013: Speaker, How it Got Here, and Why it Needs to Go Away – Public Policy Arguments Against the Marketable Product Rule; 38th Annual Kansas Bar Association/Kansas Independent Oil and Gas Association Oil and Gas Conference, Wichita, Kansas. Materials supplied.

August 10, 2013: Speaker, Common Law Issues Associated with Horizontal Drilling, Oil and Gas Regulatory Course, Wichita, Kansas. Notes supplied.

March 8, 2013: Panelist, Wind Farms, Easements and Oil and Gas Leases – Accommodate or Litigate? Kansas Oil & Gas Conference, Dodge City, Kansas. Outline supplied.

January 9, 2013: Speaker, Introduction to the Oil & Gas Lease; Introduction to Mineral Title Examination Course, Washburn University School of Law, Topeka, Kansas. This was a three-day inter-session course prepared by Professor David E. Pierce. I taught the oil and gas lease topic on the afternoon of the first day using slides prepared by Professor Pierce. Notes supplied.

October 21, 2011: Speaker, Spinning Straw Into Gold: Refining & Redefining

Lease Provisions for the Realities of Resource Play Operations; 36th Annual Kansas Bar Association/Kansas Independent Oil and Gas Association Oil and Gas Conference, Wichita, Kansas. Materials supplied.

July 23, 2011: Speaker, Spinning Straw Into Gold: Refining and Redefining Lease Provisions for the Realities of Resource Play Operations; Rocky Mountain Mineral Law Foundation Annual Institute, Albuquerque, New Mexico. Materials supplied.

March 3, 2010: Speaker, Basic Contracting Principles Impacting Exploration Projects, Rocky Mountain Mineral Law Foundation, Oil and Gas Agreements: The Exploration Phase, Houston, Texas. Professor David E. Pierce prepared both the presentation materials and the underlying paper. He was called away on business and asked me to give the presentation in his place. Materials supplied.

October 23, 2009: Speaker, Recent Developments in Subsurface Trespass by Hydraulic Fracturing; 34th Annual Kansas Bar Association/Kansas Independent Oil and Gas Association Oil and Gas Conference, Wichita, Kansas. Materials supplied.

October 2-3, 2009: Responder, The Future of Oil and Gas Jurisprudence II Symposium, Washburn University School of Law, Topeka, Kansas. My role was to provide a short commentary and response to a presentation by Professor Owen Anderson regarding subsurface trespass. I have no notes, transcript, or recording. The address for Washburn University School of Law is 1700 Southwest College Avenue, Topeka, Kansas 66621.

May 19, 2009: Speaker, Wrestling with a Downhole Dilemma Subsurface Trespass, Correlative Rights, and the Need for Hydraulic Fracturing in Tight Reservoirs; Houston Bar Association, Houston, Texas. Materials supplied.

October 26, 2007: Speaker, Bottomhole Bandits? Recent Developments in the Area of Hydraulic Fracturing and Subsurface Trespass, 32nd Annual Kansas Bar Association/Kansas Independent Oil and Gas Association Oil and Gas Conference, Wichita, Kansas. Materials supplied.

July 20, 2007: Speaker, Wrestling with a Downhole Dilemma – Subsurface Trespass, Correlative Rights, and the Need for Hydraulic Fracturing in Tight Reservoirs; Rocky Mountain Mineral Law Foundation, Annual Institute; Vancouver, British Columbia. Materials supplied.

June 9, 2007: Speaker, Bottomhole Bandits? Recent Developments in the Area of Hydraulic Fracturing and Subsurface Trespass, Kansas Bar Association Annual Meeting CLE, Wichita, Kansas. Materials supplied.

May 31, 2007: Speaker, Law Clerk Seminar – Nuts and Bolts; Wichita Bar

Association, Wichita, Kansas. The presentation was on basic research and writing skills for summer law clerks. I have no notes, transcript, or recording. The address for the Wichita Bar Association is 225 North Market, Suite 200, Wichita, Kansas 67202.

- 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.

Interview with KWCH television news reporter regarding the passing of United States District Judge Wesley E. Brown conducted at KWCH studio in Wichita, Kansas (Jan. 24, 2012 – video no longer available on KWCH website; I do not have any notes or other written materials from this interview)

John Broomes, Attorney, Hinkle Elkouri Law Firm, Wichita Eagle, March 8, 2007. Copy supplied.

Interview with KBUZ radio station in Topeka, Kansas, regarding new student group organized at Washburn University (late summer 2001). I do not have any notes or other written materials for this interview. I contacted the radio station; they have no transcript or other record of the interview. The interview was reported in the Topeka Capital-Journal newspaper. Copy supplied.

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

I was appointed by the United States District Court, District of Kansas, to serve as chairman of a three-member commission to conduct the trial of a federal condemnation case under the Natural Gas Act, 15 U.S.C. § 717f(h). Because I essentially served in the role of a federal trial judge for the limited purpose of trying this case, I include it here.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? 1

- i. Of these, approximately what percent were:

jury trials:	0 %
bench trials:	100%
civil proceedings:	100%
criminal proceedings:	0%

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

I have not written any opinions, concurrences, or dissents.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

N. Nat. Gas Co. v. Approximately 9117 Acres in Pratt, Kingman, No. CIV.A. 10-1232-MLB. Commissioners' report dated August 26, 2014 supplied.

This was a condemnation case brought under the Natural Gas Act, 15 U.S.C. § 717f(h), in which the plaintiff had been authorized to condemn certain rights related to the storage of natural gas in and under approximately 9,200 acres of land in the vicinity of the Cunningham Storage Field in Pratt, Reno, and Kingman Counties, Kansas. Following a nineteen-day trial, the commission determined that the amount of just compensation owed by the plaintiff was just over \$7.3 million.

The commission's report was adopted in full by the district court. *See N. Nat. Gas Co. v. Approximately 9117 Acres in Pratt, Kingman*, No. CIV.A. 10-1232-MLB, 2015 WL 471244 (D. Kan. Feb. 4, 2015) (reviewing commission report and adopting same in its entirety). On appeal, the United States Court of Appeals for the Tenth Circuit affirmed in part, and reversed in part. *N. Nat. Gas Co. v. L.D. Drilling*, 862 F.3d 1221 (10th Cir. 2017). The issue on which the court of appeals reversed was not an issue that was decided by the commission.

Counsel for Northern Natural

Mark Coldiron

Ryan Whaley Coldiron Jantzen Peters & Webber PLLC

119 North Robinson Avenue, Suite 900

Oklahoma City, OK 73102

(405) 239-6040

Richard Olmstead

Kutak Rock LLP

Omni Center IV

111 South Whittier, Suite 110

Wichita, Kansas 67207-1045

(816) 502-4669

Counsel for L.D. Drilling

Jim Goering

Foulston Siefkin LLP

1551 North Waterfront Parkway, Suite 100

Wichita, Kansas 67206-4466

(316) 291-9709

Counsel for Landowners

Stephen Robison
Fleeson Gooing Coulson & Kitch
1900 Epic Center
301 North Main
Wichita, Kansas 67202
(316) 267-7361, extension 125

Counsel for Nash Oil & Gas

Brian Madden
Wagstaff & Cartmell
4740 Grand Avenue, Suite 300
Kansas City, Missouri 64112
(816) 701-1100

Counsel for VAL Energy

Jeffery Carmichael
Law Offices of Morris Laing
300 North Mead, Suite 200
Wichita, Kansas 67202
(316) 262-2671

- 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.

None.

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

None.

- 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.

None.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

The only decision I have issued was the unpublished commissioner's report described above. This report is stored electronically in the CM/ECF filing system for the United States District Court, District of Kansas, under the following case: *N. Nat. Gas Co. v. Approximately 9117 Acres in Pratt, Kingman*, No. CIV.A. 10-1232-MLB, Docket Entry No. 888 (Aug. 26, 2014).

- 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.

None.

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

None.

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

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

With the exception of my role as commission chairman in the case of *N. Nat. Gas Co. v. Approximately 9117 Acres in Pratt, Kingman*, No. CIV.A. 10-1232-MLB, I have not served in a judicial role. When I was contacted by the federal district court regarding potential service as the commission chairman, I performed a review of my firm's records pertaining to all involved parties to evaluate conflicts of interest. None of the parties requested my recusal in that case.

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.

Since 2010, I have served as Republican Precinct Committeeman for Payne Township in Sedgwick County, Kansas.

- 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.

In 2012 and again in 2014, I served on the campaign committee for Representative Dennis Hedke, 99th House District, Kansas Legislature. I helped Representative Hedke develop campaign materials, and I assembled and placed campaign signs. I served as co-chair of the committee during the 2012 election and as a committee member in the 2014 election.

Since 2016, I have served as an Alternate Delegate for the Republican 4th Congressional District Convention.

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;

2003 to 2006: I served as a law clerk to the Honorable Monti L. Belot, United States District Judge, District of Kansas

2003: I served as a law clerk to the Honorable Donald W. Bostwick, United States Magistrate Judge, District of Kansas.

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

I have never practiced alone.

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

2007 – Present
Hinkle Law Firm LLC
1617 North Waterfront Parkway, Suite 400
Wichita, Kansas 67206
Member (Partner), 2010 to Present
Associate, 2007 to 2010

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

I have not served as a mediator or arbitrator.

b. Describe:

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

My practice has generally fallen into two broad areas. First, a substantial part of my practice has been in essentially the role of outside general counsel for several out-of-state business clients. Most of my clients have their own in-house general counsel, with whom I worked closely. As outside general counsel, I frequently select, supervise, and coordinate the work of litigation attorneys in numerous states where my clients conduct business. I also develop and implement case strategies and legal theories, review and approve court filings, and assist my clients in directing the litigation attorneys on individual cases. The other substantial component of my work in this role involves advising my clients on commercial transactions, along with drafting and negotiating the associated agreements.

The second general area of my practice has been focused in Kansas. In this role, I continue to provide both litigation and transactional services, but I serve a broader client base. With respect to litigation, I handle more of the day-to-day work and court appearances myself, rather than supervising other outside lawyers.

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

A substantial part of my practice has been in the area of oil and gas law; however, the nature of that work encompasses a broad spectrum of topics including contracts, property law, environmental and other regulatory law, tax, personal injury and other torts, insurance-related matters, and occasionally criminal law.

In my outside general counsel work, typical clients have been small to mid-sized publically traded entities. In the rest of my practice, I have represented an array of individuals and small businesses.

- 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.

Since I entered private practice in 2007, approximately 50% of my practice has been in the area of litigation, and I have appeared in court occasionally.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 45% |
| 2. state courts of record: | 50% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 5% |

- ii. Indicate the percentage of your practice in:

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

- 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 supervised and participated in approximately 50 cases in courts of record that I took to final decision through either trial, summary judgment, or dismissal. I have appeared in or supervised dozens of additional cases that were ultimately resolved between the parties. I have personally tried three cases to final judgment as sole or lead counsel. All of these cases were tried in federal court. I also appeared and served as associate counsel in two other cases that I took to summary judgment or dismissal. The percentages listed below are for the three trials I handled as sole or lead counsel.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 33% |
| 2. non-jury: | 67% |

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

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

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

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

(1) *Heavy Petroleum Partners, LLC v. Atkins*, No. CIV.A 09-1077-EFM (D. Kan. June 9, 2010), *aff'd in part and rev'd in part*, 457 F. App'x 735 (10th Cir. 2012); *on remand*, 2013 WL 3821275 (D. Kan. July 23, 2013), *aff'd*, 577 F. App'x 864 (10th Cir. 2014).

This was a quiet title and breach of contract action arising out of an oil and gas lease covering lands in northeast Kansas. I served as sole counsel to Heavy Petroleum Partners, LLC, for the entire case, with the exception of the initial phase of the first appeal. I filed this case in early 2009. I obtained partial summary judgment and a preliminary injunction for my client before proceeding to a jury trial on the remaining issues. The jury found for my client on all matters and defendants appealed. The United States Court of Appeals for the Tenth Circuit affirmed on all key issues except those including or dependent upon the grant of partial summary judgment on the title issues. On remand, I tried the quiet title claim to the court. The district court ruled in favor of my client on the title issue and then reinstated the jury verdict on the remaining matters. Defendant appealed again and the Tenth Circuit affirmed. The case was before Judge Eric Melgren in the United States District Court for the District of Kansas. The first appeal to the Tenth Circuit was heard by Judges Briscoe, Lucero, and Baldock, and the second appeal was heard by Judges Briscoe, McKay, and Phillips.

Counsel for Atkins and J.J.R. of Kansas Limited

Ira D. Hawver (no longer practicing law)

(2) *In re Energytec, Inc.*, No. 09-41477-BTR11, 2009 WL 5101765 (Bankr. E.D. Tex. Dec. 17, 2009), *aff'd sub nom., Red River Res. Inc. v. Wickford, Inc.*, 443 B.R. 74 (E.D. Tex. 2010).

This was an adversary proceeding in bankruptcy. I represented Wickford, Inc., and TCRG Drilling & Operating, LLC. My clients filed this adversary proceeding against the debtors seeking a ruling that certain of the debtor's oil and gas leases had terminated prior to the bankruptcy. I served as lead counsel for the adversary proceeding, where I

tried the case and handled most of the briefing. The bankruptcy court ruled in favor of my clients, and that ruling was affirmed on appeal to the United States District Court for the Eastern District of Texas. The case was heard in the bankruptcy court by Judge Brenda Rhoades, and on appeal to the district court by Judge Richard Schnell.

Co-Counsel for Wickford, Inc., and TCRG Drilling & Operating, LLC

Aaron Tobin
Condon, Tobin, Sladek, Thornton PLLC
8080 Park Lane Suite 700
Dallas, Texas 75231
(214) 265-3851

Counsel for Energytec, Inc.

Patrick Kelley
Ireland Carroll & Kelley, P.C.
6101 South Broadway, Suite 500
Tyler, Texas 75703
(903) 561-1600

Counsel for Red River Resources, Inc.

Chad Kutmas
McDonald, McCann, Metcalf & Carwile, LLP
First Place Tower
15 East Fifth Street, Suite 1400
Tulsa, Oklahoma 74103
(918) 430-3700

- (3) *Wallace B. Roderick Irrevocable Trust v. XTO Energy, Inc.*, Case No. 08-cv-01330, 2016 WL 4039641 (D. Kan. July 28, 2016).

This was a putative class action in which oil and gas royalty owners sued for failure to pay royalties and improper royalty deductions under Kansas' marketable condition rule. I joined the trial team in September 2015, following remand by the United States Court of Appeals for the Tenth Circuit, in which the court of appeals vacated the district court's decision to certify a class of royalty owners. My role was to serve as Kansas counsel and to provide expertise on Kansas oil and gas law. I reviewed and revised numerous briefs on cross-motions for summary judgment, class certification, and related matters. The federal district court ruled for my client on most of the key issues addressed in the order, and the plaintiff subsequently moved to dismiss the balance of the case. During my involvement in the case, it was before Judge Eric Melgren.

Co-Counsel for XTO Energy, Inc.

Jeffrey C. King
Christopher A. Brown
Winstead PC
300 Throckmorton, Suite 1700

Fort Worth, Texas 76102
(817) 420-8200

Counsel for Wallace B. Roderick Revocable Living Trust, Trustee Amanda Roderick
Rex A. Sharp
Sharp Law
5301 West 75th Street
Prairie Village, Kansas 66208
(913) 901-0505

- (4) *Nearburg Exploration Company et al. v. COG Operating LLC*, No. D-101-CV-2015-02541, First Judicial District Court, Santa Fe County, N.M.; Case No. 15441, State of New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Divisions; *COG Operating LLC v. Nearburg Exploration Company et al.*, No. D-503-CV-2016-00196, Fifth Judicial District Court, Eddy County, N.M.

This is a multi-forum dispute involving claims of subsurface trespass, conversion, breach of contract, and related claims. I have represented COG Operating LLC in this matter since it began in 2015. The plaintiffs originally sued my client in state court in Santa Fe, New Mexico, while simultaneously seeking related relief from the New Mexico Oil Conservation Division and the State Land Office. Plaintiffs claimed that my client drilled two horizontal oil wells onto their lease without authority to do so. My client maintains it had the right to drill the wells under several alternative theories. I was lead counsel during the pre-litigation phase. When plaintiffs filed suit, I assisted the client in selecting and assembling the trial team. I currently serve as outside general counsel in charge of this case. Both of the state court cases are currently on appeal to the New Mexico Court of Appeals on a venue dispute. The matter before the Oil Conservation Division was decided largely in favor of my client, but on de novo review by the Oil Conservation Commission, the reviewing body set aside the division ruling and indicated an intent to await resolution of certain issues in the trial court. The judges in the Santa Fe and Eddy County cases were Judge Mathew and Judge Shuler Gray, respectively.

Co-Counsel for COG Operating LLC

Len Wade
Kelly Hart & Hallman LLP
201 Main Street, Suite 2500
Fort Worth, Texas 76102
(817) 878-3596

Michael Campbell
Campbell Trial Law LLC
110 North Guadalupe, Suite 6
Santa Fe, New Mexico 87501
(505) 820-9959

Michael Feldewert

Holland & Hart LLP
110 North Guadalupe, Suite 1
Santa Fe, New Mexico 87501
(505) 988-4421

Counsel for Nearburg Exploration Company

David Harper
Haynes and Boone, LLP
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
(214) 651-5247

- (5) *Vodenichar v. Halcon Energy Properties, Inc.*, 733 F.3d 497 (3d Cir. 2013).

This was a putative class action by certain landowners asserting claims for breach of contract for failing to enter into leases under letter of intent with landowner representatives. I represented Halcon Energy Properties, Inc. This case was originally filed in the United States District Court for the Western District of Pennsylvania. Plaintiffs subsequently dismissed the federal case and re-filed in state court. My client removed the case back to federal court pursuant to the Class Action Fairness Act of 2005 (“CAFA”). The federal district court granted plaintiffs’ motion to remand. On appeal, the United States Court of Appeals for the Third Circuit affirmed on different grounds. The significance of the case is that this was the first case in which the Third Circuit addressed the “home state exception” to CAFA jurisdiction, and the second in which it addressed the “local controversy exception.” In my role as outside general counsel for litigation on this matter, I worked closely with trial counsel from late 2012 through 2014 to develop overall case strategy, as well as strategy for removal, and I worked extensively on briefs related to the removal dispute. This case was before Judge Arthur Schwab in the Western District of Pennsylvania, and the Third Circuit case was heard by Judges Schwartz, Rendell, and Smith.

Co-Counsel for Halcon Energy Properties, Inc.

Kevin Colosimo
Frost Brown Todd LLC
Union Trust Building
501 Grant Street, Suite 800
Pittsburg, Pennsylvania 15219
(412) 513-4300

Counsel for Vodenichar et al.

David Borkovic
Jones Gregg Creehan & Gerace, LLP
411 Seventh Avenue, Suite 1200
Pittsburgh, Pennsylvania 15219-1905
(412) 261-6400

Counsel for Co-eXprise, Inc.

John K. Gisleson
Morgan, Lewis & Bockius LLP
One Oxford Centre, 32nd Floor
Pittsburgh, Pennsylvania 15219-6401
(412) 560-7435

Counsel for Morascyzk & Polochak

Daniel M. Taylor, Jr.
Margolis Edelstein
525 William Penn Place, Suite 3300
Pittsburgh, Pennsylvania 15219
(412) 355-4957

(6) *Peironnet v. Matador Res. Co.*, 144 So. 3d 791 (La. 2013).

This was a title dispute regarding oil and gas leasehold interests covering over 1,800 acres of land in northwest Louisiana. I represented Petrohawk Properties, L.P., throughout the litigation. The dispute arose between certain landowners and their lessee, Matador Resources Corporation, with the landowners claiming that significant portions of Matador's lease had expired. The landowners subsequently leased those rights to my client, who intervened in the litigation to protect its interests. The case was tried to a jury, which found in favor of Matador. On appeal, the Louisiana Court of Appeals reversed in favor of my clients, but the Louisiana Supreme Court took the case and reversed in favor of Matador. I served as outside general counsel throughout the litigation, and developed case strategy; reviewed and revised pleadings and briefs; and supervised trial counsel. The case was tried before Judge Roy Brun.

Co-counsel for Petrohawk Properties, L.P.

Eugene M. Nettles
Porter & Hedges LLP
1000 Main Street, 36th Floor
Houston, Texas 77002
(713) 226-6609

Counsel for Matador Resources Corporation

D. Patrick Long
Squire Patton Boggs
2000 McKinney Avenue, Suite 1700
Dallas, Texas 75201
(214) 758-1505

Counsel for Chesapeake Louisiana, L.P.

Michael B. Donald
Jones Walker LLP
1001 Fannin Street, Suite 2450

Houston, Texas 77002
(713) 437-1824

Counsel for Cynthia Peironnet et al.

Randall Davidson
Davidson Summers
330 Marshall Street, Suite 1114
Shreveport, Louisiana 71101
(318) 424-4342

- (7) *Cent. Oklahoma Pipeline, Inc. v. Hawk Field Servs., LLC*, 400 S.W.3d 701 (Ark. 2012).

This was a breach of contract, deceptive trade practices, and lien case arising out of the construction of a natural gas pipeline in Arkansas. I represented Hawk Field Services, LLC, and related entities. In my role as outside general counsel for litigation, I developed case strategy, and hired and supervised trial counsel in the preparation of pleadings, memoranda, and briefs. My clients prevailed on a motion for summary judgment. The Arkansas Supreme Court ultimately affirmed the judgment, finding that the plaintiff's failure to secure required licensure barred its claims, and rejecting plaintiff's claim that the statute at issue was unconstitutional. The case was heard in the Circuit Court of Conway County, Arkansas by Judge David McCormick.

Co-counsel for Hawk Field Services, LLC, and related entities

Mitchell L. Herren
Hinkle Law Firm LLC
1617 North Waterfront Parkway, Suite 400
Wichita, Kansas 67206
(316) 660-6208

R. Scott Morgan
PPGMR Law, PLLC
101 Morgan Keegan Drive, Suite A
Little Rock, Arkansas 72202
501-603-9000

Counsel for Central Oklahoma Pipeline, Inc.

Marten W. Bowen
Bowen Law Firm, PLLC
121 North Spring Street
Searcy, Arkansas 72143
(501) 614-3800

- (8) *Hall Ponderosa, LLC v. Petrohawk Properties, L.P.*, 90 So. 3d 512 (La. Ct. App. 2012), *writ denied*, 98 So. 3d 858 (La. 2012).

Landowners sued my client, Petrohawk Properties, L.P., seeking reformation of an oil and gas lease to add an additional section of land and recover additional lease bonus of \$15,000 per acre. The case was tried to the court in the Fourteenth Judicial District Court, Parish of Calcasieu, Louisiana. The trial court found that the landowners had met their burden to prove, by clear and convincing evidence, that the section of land had been omitted from the lease by mutual error of the parties, and therefore ordered reformation of the lease. On appeal, the Louisiana Third Circuit Court of Appeal reversed, finding the record void of evidence to support a finding of mutual mistake by clear and convincing evidence. I supervised trial counsel from initial case strategy through trial to final disposition. The case was tried before Judge Wilford Carter.

Co-counsel for Petrohawk Properties, L.P.

Jamie Manuel
Assistant Secretary, Office of Mineral Resources
Louisiana Department of Natural Resources
617 North Third Street
LaSalle Building, 8th Floor
Baton Rouge, Louisiana 70802
(225) 342-4615

Counsel for Hall Ponderosa, LLC

Kenneth M. Wright
Kenneth Michael Wright, LLC
203 West Clarence Street
Lake Charles, Louisiana 70601-5229
(337) 439-6930

- (9) *Petroquest Energy, L.L.C. and Rtex, Inc. v. Petrohawk Energy Corporation et al.*, Case No. 348-228427-08, 348th Judicial District Court, Tarrant County, Texas; *Petrohawk Energy Corporation et al. v. Petroquest Energy, L.L.C. et al.*, Case No. CIV-2009-284, Circuit Court of Van Buren County, Arkansas.

This was a multi-forum case involving claims of breach of contract and related business torts arising out of an oil and gas leasing venture in Arkansas. The Texas case was filed in 2008. The related Arkansas case was filed in 2009. I represented Petrohawk Energy Corporation and its related entities. I developed case strategy; drafted, reviewed, and revised pleadings and briefs; conducted discovery; and supervised trial counsel for the case. After extensive discovery, motion practice, and applications for appellate review, the case was ultimately settled in 2011. The Texas case was heard by Judge Dana Womack, and the Arkansas case was heard by Judge Michael Maggio.

Co-counsel for Petrohawk Energy Corporation, et al.

J. Robert Beatty
Locke Lord LLP
2200 Ross Avenue Suite 2800

Dallas, Texas 75201
(214) 740-8530

Marshall Ney
Friday, Eldredge & Clark, LLP
3350 South Pinnacle Hills Parkway, Suite 301
Rogers, Arkansas 72758
(479) 695-6049

Counsel for RTECH, Inc.

Len Wade
Kelly Hart & Hallman LLP
201 Main Street, Suite 2500
Fort Worth, Texas 76102
(817) 878-3596

Counsel for Petroquest Energy, LLC

Richard Lagarde
LaGarde Law Firm, P.C.
3000 Wesleyan Street, Suite 380
Houston, Texas 77027
(713) 993-0660

Counsel for Jacqueline Heide and Joseph Svoboda

H. Allen Pennington
Pennington Hill, LLP
Tindall Square - Warehouse No. 3
509 Pecan Street, Suite 101
Fort Worth, Texas 76102
(817) 332-5055

(10) *Devon Energy Prod. Co., L.P. v. Norton*, 685 F. Supp. 2d 614 (W.D. La. 2010).

This was a dispute between the United States and the State of Louisiana, along with a number of state and federal oil and gas lessees, regarding ownership of certain water bottoms in the former lake bed of Lake Bistineau. Devon was a federal lessee who sued the Secretary of the Interior in an effort to compel the United States to defend title to certain lands leased to Devon. I represented K.C.S. Resources, Inc., a successor in interest to Devon, from 2007 until the case was resolved in 2011. The significance of the case is that it required the parties to litigate over the elevation of the ordinary high water mark of Lake Bistineau in 1812, when Louisiana entered the Union, which was no small task given that the lake level had been altered substantially over the centuries through draining after the Civil War and then construction of a dam in 1934. The district court ruled that Louisiana law, rather than federal law, governed the dispute. This decision favored the State of Louisiana and its lessees, and effectively paved the way for the parties to settle the remaining issues in the case. In my role as outside general counsel for

litigation, I worked closely with trial counsel on case strategy, legal theories, and efforts to resolve the dispute. The case was heard by Judge Robert James.

Co-counsel for K.C.S. Resources, Inc.

Joe B. Norman
One Shell Square
701 Poydras Street
Suite 5000
New Orleans, Louisiana 70139
(504) 556-4143

Counsel for the United States

Asst. U.S. Attorney John Broadwell (deceased)

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

In addition to my litigation-related practice, I have maintained an active transactional practice in which I represent clients in acquisitions and divestitures of oil and gas properties, and in the negotiation, interpretation, and application of operations-related agreements. Many of the transactions I worked on were valued in the hundreds of millions of dollars, with one acquisition approaching \$1.5 billion.

I have also been active in the legal community and authored legal scholarship related to my practice expertise. I have played a leadership role in the Kansas Bar Association in recent years, including serving as President of the Oil, Gas, and Mineral Law Section from 2014 to 2015. I have published numerous articles on related topics, including co-authoring the oil and gas chapter in the Kansas Annual Survey of the Law. I regularly participate in organizing and presenting CLEs for state and regional bar institutes.

I have never performed any lobbying activities.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

Other than the half-day or less presentations described in my response to Question 12(d) for the regulatory, title, and negotiation courses, I have not taught any formal courses.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all

anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

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

No, I do not have any plans, commitments, or agreements to pursue outside employment.

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).

Please refer to the attached financial disclosure report.

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

Please refer to the attached statement of financial net worth.

24. **Potential Conflicts of Interest:**

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

I am not aware of any family member or other persons or situations that are likely to present a conflict of interest.

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

I would resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges, 28 U.S.C. Section 455, and all applicable policies and procedures of the United States Courts. I would recuse myself in any case in which my impartiality might reasonably be questioned.

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.

Due to the high cost of legal services, I have routinely made an effort to provide pro bono services to individuals who could not otherwise afford to pay for legal advice and assistance. My pro bono work has included representing a former police officer who was disabled in the line of duty in a dispute with his long-term disability insurance provider. The insurer sought to terminate benefits even though the officer was severely and permanently disabled.

I have also assisted a number of individuals regarding disputes with their employers; provided free counsel and document preparation for wills and estate matters and related issues; assisted a couple with a residential construction dispute in which a general contractor breached a construction contract and threatened my clients with liens unless additional amounts were paid to complete the project; prepared real property instruments, reviewed oil and gas leases, and assisted in the negotiation of leases and related agreements for several individuals.

26. Selection Process:

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

In December 2016, I expressed my interest to serve as a federal district court judge to Senator Pat Roberts and Senator Jerry Moran. Subsequently, I interviewed with various members of the senators' staffs, and ultimately with the Senators themselves.

On May 19, 2017, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice. On June 6, 2017, I was informed by the White House Counsel's Office that the President was considering nominating me, subject to further background investigations.

Since June 2017, I have been in contact with officials from the Office of Legal Policy at the Department of Justice regarding paperwork required for the nomination process. On September 7, 2017, President Trump submitted my nomination 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.