

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

John Frederick Heil III

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

United States District Judge for the Northern, Eastern and Western Districts of Oklahoma

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.

320 South Boston Avenue, Suite 200
Tulsa, Oklahoma 74103

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

1968; Lima, Ohio

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.

1991 – 1994, The University of Tulsa College of Law; J.D., 1994

1986 – 1990, Oklahoma State University; B.S., 1990

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.

2000 – present

Hall, Estill Hardwick, Gable, Golden and Nelson, P.C.

320 South Boston Avenue, Suite 200

Tulsa, Oklahoma 74103

Shareholder Attorney (2000 – present)

Executive Committee Member (2018 – present)

Board of Directors Member (2015 – present)

2016 – present
Toledo Properties, LLC
11716 South Canton Avenue
Tulsa, Oklahoma 74137
Sole Member (real estate investment property)

1997 – 2000
Tulsa County District Attorney's Office
500 South Denver Avenue, # 900
Tulsa, Oklahoma 74103
Assistant District Attorney

1993 – 1997
Ronald D. Wood & Associates
No current address
Associate Attorney (1994 – 1997)
Legal Intern (1993 – 1994)

1986 – 1991
Holiday Inn
2515 West 6th Avenue
Stillwater, Oklahoma 74074
Guest Services Representative

Other Affiliations (Uncompensated)

2013 – 2018
Leadership Tulsa (non-profit)
1717 South Boulder Avenue W, # 104
Tulsa, Oklahoma 74119
Board of Directors Member

2014 – 2017
Crosstown Learning Center (non-profit)
2501 East Archer Street
Tulsa, Oklahoma 74110
Board of Directors Member

2013 – 2016
Cedar Ridge Country Club
10302 South Garnett Road
Broken Arrow, Oklahoma 74011
President (2015 – 2016)
Board of Directors Member (2013 – 2016)

2007 – 2009

Eisenhower International School Foundation (non-profit)
3111 East 56th Street
Tulsa, Oklahoma 74105
President (2009)
Board of Directors Member (2007 – 2009)

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 have not served in the military. I registered for selective service upon turning 18.

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

The Best Lawyers in America – Recognized for Commercial Litigation (2019)

Benchmark Litigation – Recognized as Future Litigation Star (2016 – present)

Honored Recipient of the Sertoma Tulsa Metropolitan Officer of the Year (1999)

The University of Tulsa College of Law, J.D., with Honors (1994)

Order of the Curule Chair (1994)

The University of Tulsa College of Law Academic Scholarship Recipient (1992 – 1994)
Phi Delta Phi Honor Society (1992 – 1994)

Phi Kappa Phi Honor Society (1992 – 1994)

The University of Tulsa College of Law, Dean's Honor List, Fall 1991 – Spring 1994 (all six semesters)

Two Time Recipient of the American Jurisprudence Award (1992, 1994)

Oklahoma State University, Dean's Honor List (1989 – 1990)

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

American Inns of Court (approximately 2001 – 2003)

Oklahoma Bar Association (1994 – present)

Tulsa County Bar Association (1994 – present)

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.

Oklahoma, 1994

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 Eighth Circuit, 2001
United States Court of Appeals for the Federal Circuit, 2009
United States Court of Appeals for the Ninth Circuit, 2003
United States Court of Appeals for the Tenth Circuit, 2001
United States District Court for the Eastern District of Oklahoma, 1995
United States District Court for the Northern District of Oklahoma, 1995
United States District Court for the Western District of Oklahoma, 2003
Oklahoma Supreme Court, 1994

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.

Asbury United Methodist Church
Wesley Community Member, past Class President
Student Ministry Volunteer (2013 – present)
Usher Volunteer (2010 – 2012)
Marriage Ministry Volunteer (2007 – 2009)
Children's Ministry Volunteer (2002 – 2005)
Upward Basketball Ministry Coach (2003 – 2011)

Cedar Ridge Country Club
President (2015 – 2016)
Board of Directors Member (2013 – 2016)

Crosstown Learning Center
Board of Directors Member (2014 – 2017)

Eisenhower International School Foundation
President (2009)
Board of Directors Member (2007 – 2009)

Influencers Global Ministries
Journey Discipleship Program Participant (2007; 2017)
Journey Discipleship Program Guide (2018 – present)

Leadership Tulsa
Board of Directors Member (2013 – 2018)
Member (2005 – present)

Special Judge Selection Committee for the District Court of Tulsa County,
State of Oklahoma, 14th Judicial District
Committee Member (2018)

Toledo Properties, LLC
Sole Member (2016 – present)

Tulsa Habitat for Humanity
Fundraising Committee Member (2018 – 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.

Team Work Defense, Facts & Findings, Vol. XX Issue 2, Aug. 1993 at 10. 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.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

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

While with the District Attorney's Office Drug Task Force from 1997 – 1998, I, along with a colleague, taught search and seizure law, including application of the Fourth Amendment, along with explanation of various decisions of the United States Supreme Court, at the Tulsa Police Department Academy. I do not have a syllabus of the presentation. The address of the Tulsa Police Department Academy is 6066 East 66th Street N, Tulsa, Oklahoma 74117.

- 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.

Ziva Branstetter, Ruling lets foster mom to 'profit from her own neglect,' attorney says, Tulsa World, Oct. 19, 2012. Copy supplied.

Bill Braun, Award upheld in wrongful-death suit, Tulsa World, Aug. 23, 2007. Copy supplied.

In 2003, I recall that I gave a radio interview to KRMG regarding the prosecution of former FBI agent Paul Rico. I have been unable to locate a copy of the interview.

Bill Braun, *Chambers' lawyer seeks relief for associate client*, Tulsa World, May 25, 2000. Copy supplied.

Bill Braun, *Murder hearing slated in '96 overdose*, Tulsa World, May 10, 2000. Copy supplied.

Bill Braun, *Judge grants new trial*, Tulsa World, Jan. 7, 2000. Copy supplied.

Bill Braun, *Mixed bag for getaway driver*, Tulsa World, July 22, 1999. Copy supplied.

Bill Braun, *Spectators Jailed After Tulsan Receives 102 Years*, Tulsa World, Sept. 13, 1997. Copy supplied.

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

I have not held a judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____
- i. Of these, approximately what percent were:
- | | |
|-----------------------|---------------------|
| jury trials: | _____% |
| bench trials: | _____% [total 100%] |
| civil proceedings: | _____% |
| criminal proceedings: | _____% [total 100%] |
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys

who played a significant role in the case.

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

I have not held a judicial office.

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

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

- a. List chronologically any public offices you have held, other than judicial offices,

including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

From 1997 to 2000, I served as an Assistant District Attorney in the Tulsa County District Attorney's Office. I was appointed by District Attorney William LaFortune.

I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- 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.

Member of Campaign Committee for Doug Drummond for District Court Judge, State of Oklahoma, 14th Judicial District (2014)

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

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

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

I have not served as a clerk to a judge.

- 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.

1994 – 1997

Ronald D. Wood & Associates

No current address

Associate Attorney

1997 – 2000

Tulsa County District Attorney's Office

500 South Denver Avenue, # 900

Tulsa, Oklahoma 74103

Assistant District Attorney

2000 – present

Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.

320 South Boston Avenue, Suite 200

Tulsa, Oklahoma 74103

Shareholder Attorney (2000 – present)

Executive Committee Member (2018 – present)

Board of Directors Member (2015 – present)

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

I have not served as an arbitrator or mediator.

b. Describe:

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

As a young associate with Ronald D. Woods & Associates, I was responsible for research and writing, preparing motions and briefs and conducting discovery. I also took primary responsibility for developing cases for trial. My caseload primarily consisted of insurance defense work, including general liability, excess liability, premises liability and medical malpractice issues. I successfully defended clients in a number of negligence claims resulting from motor vehicle accidents throughout Oklahoma, including a tragic accident which involved a wrongful death claim in McCurtain County. Another notable trial in Creek County presented much like a criminal case wherein I successfully defended a convenience store franchise from a negligence claim brought by a plaintiff who was shot by the store clerk in an effort to thwart the plaintiff's robbery. My workload continued to expand into federal court and I became panel counsel for the Oklahoma Municipal Assurance Group which provided me the ability to represent various towns and municipalities throughout the State.

In early 1997, I was offered an opportunity to become one of two prosecutors on a drug task force being created to take primary responsibility for the prosecution of major drug crimes in Tulsa County. For nearly nine months, I served on the District Attorney's Drug Task Force. I successfully prosecuted countless major drug crimes, including drug trafficking and manufacturing of dangerous controlled substance charges to conviction. I had the opportunity, on nearly a daily basis, to study the Fourth Amendment to the Constitution and the various Supreme Court decisions surrounding the acceptable bounds of search and seizure

and its significant relationship to the admissibility of evidence thereby obtained. I conducted numerous hearings in response to defendants' motions to suppress evidence. I provided guidance, teaching and instruction on the application of search and seizure law at the Tulsa Police Department Academy and to other law enforcement officials with the Tulsa County Sheriff's Office and the Oklahoma Bureau of Narcotics. I also had the opportunity to guide and instruct the Tulsa Police Department Special Investigations Division and Street Crimes Unit on the use of confidential informants and in procedures to implement controlled drug buys.

As I transitioned to a violent/felony crime team in 1998, I acted as lead attorney responsible for prosecuting major felony crimes, which included supervising and mentoring staff attorneys in initiating charging information, evaluating and making recommendations, coordinating plea negotiations and conducting jury trials. Through my service into 2000, I successfully prosecuted countless major felony crimes, including rape, child abuse and murder charges to conviction. I conducted hundreds of preliminary (probable cause) hearings on felony charges. I trained many junior prosecutors in the initial development of a case through jury trial.

Throughout my tenure in the District Attorney's Office, I served in various leadership positions, including: Liaison to the Tulsa Police Department and Tulsa County Sheriff's Office Joint Gang Task Force; Liaison to the Tulsa Police Department, Special Investigation Division, Street Crimes Unit and Drug Task Force; Liaison to the Oklahoma Attorney General's Office, Consumer Fraud Division; Liaison to the Tulsa Police Department, Fraud & Forgery Division; Liaison to the Tulsa Fire Marshal's Office; and Liaison to the Tulsa Police Department, Homicide Division.

In 2000, I was offered the opportunity to join Hall Estill and develop a civil litigation practice. At the firm, I serve as litigation counsel for a broad range of clients from individuals and small businesses to multi-national corporations. My practice has provided me the opportunity to gain substantial trial experience, prosecuting and defending litigation matters in state, federal and appellate courts throughout the United States, including Arkansas, California, Colorado, Delaware, Florida, Idaho, Kansas, Kentucky, New Jersey, Oklahoma, Pennsylvania, South Dakota, Tennessee and Texas.

Generally, my practice includes commercial litigation which has often focused on business torts, unlawful business practices and unfair competition, restrictive employment covenants, intellectual property law, including trade secret, patent, copyright and trademark litigation, and construction and general contract law.

In my early days at the firm, I began working with a senior partner who had a specialized practice that dealt with intellectual property rights, unlawful business practices, unfair competition and restrictive employment covenants. These cases most often involved claims for injunctive relief and, as a result, I was able to gain experience litigating many preliminary injunction hearings. These evidentiary hearings, a mini-trial of sorts presented to the court at the outset of the case, often determined the key issue in the case. The length of these hearings, including presentation and cross-examination of witnesses, along with other evidence governed by the rules of evidence, could range from half a day up to 4 days. As the senior partner I worked with transitioned from the firm to pursue a goal of working for a non-profit organization, I became the attorney to whom the firm and its clients often looked to handle preliminary injunction issues, especially issues surrounding Oklahoma's unique public policy governing non-compete/non-solicitation covenants within employment agreements. Throughout my 19 years at the firm, that area has remained a constant part of my practice.

Over the years, I have also had the opportunity to handle commercial litigation in various different industries. For example, from approximately 2002 – 2010, I handled a significant amount of litigation work for a major telecommunications provider. These disputes most often centered on telecommunications services agreements and the Telecommunications Services Act and often involved the fraudulent use and sale of telecommunications services by various smaller service companies. Around 2007, a significant part of my litigation practice began to focus on litigation matters for clients in the mortgage and lending industry as the housing crisis developed. With the effects of this industry crisis lasting for years, my practice continued to involve litigation surrounding mortgage lending issues, claims for fraud, the Fair Debt Collection Practices Act and contested foreclosure issues until approximately 2013.

In approximately 2009, I began working on a patent litigation matter in the United States District Court for the Western District of Oklahoma as co-counsel with a firm in Philadelphia. I quickly became entrenched in all aspects of the case and developed an appreciation for the unique rules governing patent litigation and the strategy involved in presenting the various separate issues of this type of case to the judge and jury. Thereafter, a number of conflicts developed over a patent held by one of the firm's other clients. That led to my lead prosecution of multiple patent infringement claims, as well as the defense of claims for invalidity of the patent, in 5 different states through approximately 2014.

My practice has consistently involved litigation involving misappropriation of trade secret claims for companies of all sizes as well as former employees wrongfully accused of such claims. It has also

extended over recent years to include the prosecution and defense of trademark and copyright claims.

At certain points throughout my career, I have handled various construction related litigation matters. Over the last 5 years, that part of my experience has grown substantially as clients, including project owners, general contractors and subcontractors, have sought my assistance in construction related disputes both in litigation and arbitration matters.

Over the years, I have developed experience in handling litigation disputes among members of limited liability companies, often arising from the breach of an operating agreement, management issues and/or the appropriate valuation of the company with regard to buy-out rights.

Within the last few years, the development of a mid-size oil and gas production company as a client has taken my experience with misappropriation of trade secret claims into the oil and gas industry. In addition, I have handled significant pipeline construction litigation in the energy industry.

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

While with Ronald D. Wood & Associates, my practice related to insurance defense, where my clients were individual and business insureds, including physicians and hospitals as well as small towns and municipalities.

While with the District Attorney's Office, I served as a prosecutor representing the interests of the State of Oklahoma in criminal prosecutions. For approximately nine months, I specialized in the prosecution of major drug crimes. A significant part of this experience led to specialized experience with Fourth Amendment search and seizure issues. Thereafter, I was assigned to a violent crime unit where I prosecuted a significant number of murder cases.

Since I joined Hall Estill, I have represented a broad range of clients from individuals and small businesses to multi-national corporations. My litigation practice includes commercial litigation which has most significantly focused on business torts, unlawful business practices and unfair competition, restrictive employment covenants, intellectual property law, including trade secret, patent, copyright and trademark litigation, and construction and general contract law.

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

Litigation has always been the substantial majority of my legal work and I have appeared in many courts frequently. While some of my work for smaller clients has involved transactional matters, such as drafting contracts, or providing general legal advice, that has been a small percentage of my practice (likely less than 5%).

i. Indicate the percentage of your practice in:

1. federal courts: 50%
2. state courts of record: 49%
3. other courts: less than 1% (tribal courts)
4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 99%
2. criminal proceedings: less than 1% (of a pro bono nature)

The above percentages represent my current practice (from 2000 – present). From 1997 – 2000, my practice consisted of the prosecution of criminal matters (100%).

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 approximately 35 cases to jury verdict or judgment. That number includes approximately 20 criminal jury trials conducted to verdict and judgment for the prosecution in Tulsa County District Court (approximately half as co-counsel with shared responsibilities and half as chief or sole counsel), and 1 non-jury criminal case tried to verdict and judgment before the court upon defendant's waiver of right to jury trial (sole counsel). Those approximately 35 cases also include civil trials I handled in private practice, including approximately 12 jury trials conducted to verdict and judgment (approximately half as co-counsel with shared responsibilities and half as chief counsel), 1 non-jury civil trial to verdict and judgment tried to the court (co-counsel), and 1 non-jury class action by royalty owners claiming damages for alleged improper deduction of post-production costs pursuant oil and gas leases tried to completion to the court (co-counsel) (after the court failed to render a decision for nearly a year, the case was settled).

i. What percentage of these trials were:

1. jury: 95%
2. non-jury: 5%

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. *State of Oklahoma v. Johnny Lee Taylor*, In the District Court of Tulsa County, State of Oklahoma, Case No. CF-1994-2024. (1997)

When I joined the District Attorney's Office Drug Task Force in 1997, this case had been pending for 3 years. The case had been filed against four defendants with charges that included drug trafficking, possession of marijuana with intent to distribute, possession of a firearm in the commission of a felony, possession of a firearm after former conviction of a felony, possession of drug paraphernalia and resisting arrest. Before I became involved in the case, charges were dismissed against one defendant and plea agreements were made for two others on lesser counts. I volunteered to try the case against the remaining defendant. The jury rendered a finding of guilt on all charges along with a recommendation of 102 years of incarceration for the defendant.

Judge: Thomas Gillert (Retired)

Counsel for Defendant:

Fred H. DeMier
Fred H. DeMier Law Firm
624 South Denver Avenue, Suite 325
Tulsa, Oklahoma 74119
918-592-2300

2. *State of Oklahoma v. Steven Antonio White*, In the District Court of Tulsa County, State of Oklahoma, Case No. CF-1996-1140. (1998)

The defendant was accused of shooting the victim to death in front of the victim's 5-

month-old baby and 3-year-old daughter as she walked from a health clinic toward her car. A general description of the getaway vehicle was provided by a neighboring resident which ultimately led to interviews of the suspects. The youngest confessed and provided an account of the crime. Certifications of the offenders as adults were sought and made by the court. The defendant was convicted by a jury which recommended life in prison without the possibility of parole.

Judge: Jesse Harris (Retired)

Co-Counsel:

John E. Priddy
Park Centre
525 South Main, Suite 700
Tulsa, Oklahoma 74103
918-585-9211

Counsel for Defendant:

Stanley Monroe
Monroe & Keele, P.C.
15 West 6th Street
Suite 2112
Tulsa, OK 74119
918-592-1144

3. *State of Oklahoma v. Jackie Leland Wright*, In the District Court of Tulsa County, State of Oklahoma, Case No. CF-1997-4687. (1998)

Coy and Tonya Wilkerson were murdered in their home in 1991. Evidence led to one suspect, who barricaded himself in his apartment and committed suicide, when police attempted to talk with him. The defendant was ultimately linked to the other assailant on the night of the murders. With co-counsel, I prosecuted this first degree murder case to a jury which rendered its finding of guilt against the defendant along with a recommendation of life without the possibility of parole.

Judge: Jesse Harris (Retired)

Co-Counsel:

Mark Collier
500 South Denver Avenue, #900
Tulsa, Oklahoma 74103
918-596-4805

Counsel for Defendant:

Ron Wallace

Brian T. Aspan
3404 East 33rd Street
Tulsa, Oklahoma 74135
918-585-5500
918-740-8021

4. *State of Oklahoma v. Robert Kevin Clark*, In the District Court of Tulsa County, State of Oklahoma, Case No. CF-1998-2750. (1999)

The defendant was accused of deliberately accelerating his truck into his girlfriend outside of a nightclub, dragging her across the parking lot and causing her death. He fled the scene and was subsequently located out of state. A jury convicted him of first degree murder, with a recommendation of life without the possibility of parole. I was the lead trial counsel.

Judge: J. Michael Gassett (Retired)

Counsel for Defendant:

John Dalton
1776 South Utica Avenue
Tulsa, Oklahoma 74104
918-633-1344

5. *State of Oklahoma v. Jesil Wilson*, In the District Court of Tulsa County, State of Oklahoma, Case No. CF-1998-4839. (1999)

The defendant enlisted his cousin to murder the victim, who had earlier taken away the defendant's firearm. The defendant attempted to downplay his involvement. However, unknown to the defendant, a sequence of photographic evidence was located from the apartment complex's security system which helped mark out the premeditated plan. The case was presented to a jury which found the defendant guilty of first degree murder and made a recommendation of a life in prison. I was the lead prosecutor.

Judge: J. Michael Gassett (Retired)

Co-Counsel:

Carl Funderburk
1848 East 15th Street
Tulsa, Oklahoma 74104
918-599-8000

Counsel for Defendant:

David Phillips
3014 South 121st East Avenue

Tulsa, Oklahoma 74103
918-584-5062

6. *State of Oklahoma v. Oscar Patterson III*, In the District Court of Tulsa County, State of Oklahoma, Case No. CF-1998-5967. (2000)

Fifteen year old Tiffany Beverly disappeared in May, 1997. Her step-father, the defendant, was the last person to see her alive. Beverly's remains were found in a field near where Patterson bred pit bulls, and another witness had also come forward to police with incriminating evidence from the defendant, who had confessed to murdering Tiffany. The defendant was also accused of sexually abusing the victim and another stepdaughter. At trial, significant expert testimony was presented, including experts in the fields of forensic anthropology, forensic odontology, and DNA analysis. Following a 3 week trial, in February 2000, the jury rendered its finding of guilt on the murder charge along with a recommendation of death. Later, the defendant initiated an appeal, which included a claim of ineffective assistance of counsel, and he was granted a new trial. He was later re-tried and convicted of first degree murder by a second jury.

Judge: J. Michael Gassett (Retired)

Co-Counsel:

Steve Sewell
918-636-1512

Counsel for Defendant:

David Phillips
3014 South 121st East Avenue
Tulsa, Oklahoma 74103
918-584-5062

7. *State of Oklahoma v. Henry Wayne Garrison*, In the District Court of Tulsa County, State of Oklahoma, Case No. CF-1999-5129. (2000)

The defendant was accused of murdering a young boy who had hung around his garage while the defendant worked on cars. Over the course of days, we called 19 witnesses to testify at a preliminary hearing which demonstrated probable cause to hold the defendant for trial. The trial was set after I left the District Attorney's office. The presentation of witnesses and evidence at trial followed what was presented at the preliminary hearing, and the defendant was convicted of first degree murder.

Judge: Todd Singer (Retired)

Co-Counsel:

Mark Collier

500 South Denver Avenue, #900
Tulsa, Oklahoma 74103
918-596-4805

Counsel for Defendant:

Art Fleak (Deceased)

8. *OHM Remediation Services Corp. v. Earth Tech, Inc., et al.*, In the United States District Court of South Dakota, Western Division, Case No. 99-5029. (2001)

Our client held a total environmental restoration contract ("TERC") for the complete construction remediation of an environmentally contaminated site issued by contract through a third party. The defendant, Earth Tech, held a related contract for the engineering and design portion of the project with the same third party. Nearly 80% of the dollars on the project was allocated to the construction portion of the project held by our client. As Earth Tech's early design portion of the project came to conclusion, the construction phase of the project held by our client was underway, which was anticipated to last for years with millions of dollars at stake. When Earth Tech attempted to purchase the rights to our client's TERC to no avail, it ultimately acquired the third party with whom our client had contracted so that it could unilaterally terminate the TERC with our client and assume the completion of work itself. Claims for breach of contract and other related claims were tried to a jury which rendered a verdict in favor of our client in excess of \$9,000,000.00.

Judge: Andrew W. Bogue

Co-Counsel:

Susan L. Gates (formerly with Hall Estill)
Special Advisor of Education, SAS Institute, Inc.
100 SAS Campus Drive
Cary, North Carolina 27513
919-677-8000

Counsel for Defendant:

Steven G. M. Stein
Stephen E. Ray
Joel J. Rhiner
Stein, Ray & Harris
222 West Adams, Suite 1800
Chicago, Illinois 60606
312-641-3700

9. *First American Kickapoo Operations, LLC v. Multimedia Games, Inc.*, In the United States District Court for the Western District of Oklahoma, Case No. 01-CV-1395, *aff'd* 412 F.3d 1166 (10th Cir. 2005). (2001-2005)

The Kickapoo Tribe of Oklahoma entered into an Operating Lease Agreement with First American Kickapoo Operations ("FAKO"). The agreement provided for constructing, equipping, and operating a Class II casino on tribal land. FAKO constructed the casino and began its operations. The Tribe agreed to repay the costs of construction, although FAKO guaranteed a minimum monthly payment to the Tribe which was to take precedence over the construction loan repayment. In addition, in return for lease of the gaming equipment, FAKO was to be paid forty percent of the operation's net revenues. The Tribe was promised that it would be taught how to operate the casino and that it would be involved in its operations as well as be provided access to the books and records associated with its earnings. Indian gaming operations are regulated by the National Indian Gaming Commission ("NIGC"). After the NIGC notified the Tribe that its gaming ordinances did not comply with the requirements of the Indian Gaming Regulatory Act ("IGRA"), the Tribe voluntarily closed the casino, and then passed gaming ordinances that met with NIGC approval. The Tribe was also directed to submit its agreement with FAKO to the NIGC for a determination as to whether it was a "management contract" requiring NIGC approval. The NIGC determined that agreement was indeed a management contract which was void for lack of NIGC approval. The Tribe's business committee unanimously voted to terminate the Tribe's relationship with FAKO. Thereafter, it contacted Multimedia Games, and subsequently entered into a non-exclusive agreement to rent gaming equipment from Multimedia. When FAKO discovered Multimedia's relationship with the Tribe, it sued alleging that Multimedia had tortiously interfered with its relationship with the Tribe. The Court granted partial summary judgment to our client Multimedia and the remainder of the claims were tried to a jury, which rendered a verdict for Multimedia on all counts. FAKO appealed to the Tenth Circuit. Following oral argument, the Court rendered its decision affirming the judgment in the trial court.

Judges:

Stephen P. Friot (District Court)

Terrence L. O'Brien; John C. Porfilio; Michael W. McConnell (on Appeal)

Co-Counsel:

Tony Graham
Toon Law Firm
1619 South Peoria, Suite A
Tulsa, Oklahoma 74120
918-407-9699

T. Lane Wilson
Sr. VP and General Counsel
The Williams Companies, Inc.
One Williams Center, Suite 4900
Tulsa, Oklahoma 74172

(918) 573-1717

Counsel for Plaintiff:

Jimmy K. Goodman
Crowe & Dunlevy
324 North Robinson Avenue Suite 100
Oklahoma City, Oklahoma 73102
405-235-7717

10. *Wilma Wilson v. University Mansion Limited Partnership, d/b/a University Club, et. al*, In the United States District Court for the Northern District of Oklahoma, Case No. 17-CV-217. (2017)

The plaintiff was a resident of the defendants' building. She alleged that the defendants' removal of wind barriers during renovations created hazardous conditions that put the residents at risk. She was struck by the force of a heavy door thrust at her by a gust of wind, suffering serious injury. After a four day trial, the jury returned a verdict in favor of our client in the amount of \$1,239,000.00, which included punitive damages awarded in a second evidentiary stage.

Judge:

Gregory K. Frizzell

Co-Counsel:

Kelly C. Comarda
Hall Estill
100 North Broadway
Suite 2900
Oklahoma City, Oklahoma 73102
405-553-2302

Counsel for Defendants:

Eddie L. Carr
Drew A. Lagow
Holden & Montejano
First Place
15 East 5th Street, Suite 3900
Tulsa, Oklahoma 74103
918-295-8888

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe

the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

While with Tulsa County District Attorney's Office, I served nearly nine months on a drug task force where I had primary responsibility for the prosecution of major drug crimes. I successfully prosecuted countless major drug crimes, including drug trafficking and manufacturing of dangerous controlled substance charges to conviction. I had the opportunity to work with members of the Oklahoma State Bureau of Investigations in the identification for prosecution of persons responsible for the assembly of laboratories for the unlawful manufacture of methamphetamine. I had the opportunity to study, and teach various members of law enforcement concerning the Fourth Amendment to the Constitution and the various Supreme Court decisions surrounding the acceptable bounds of search and seizure and its significant relationship to the admissibility of evidence thereby obtained. As I transitioned to a violent/felony crime team, I had the opportunity to prosecute a significant number of major felony crimes, including rape, child abuse and murder charges to conviction.

As an attorney with Hall Estill, I have had the opportunity to handle numerous commercial litigation matters in various different industries. For example, from approximately 2002 – 2010, I handled a significant amount of litigation work for a major telecommunications provider, dealing with issues surrounding the Telecommunications Services Act as well as claims involving the fraudulent use and sale of telecommunications services. Beginning around 2007, I had the opportunity to handle numerous litigation matters for clients in the mortgage industry as the housing crisis developed, focusing on mortgage lending issues, claims for fraud and the Fair Debt Collection Practices Act. In approximately 2009, I had the opportunity to become involved in various patent litigation matters which expanded to cases in five different states. My practice has also allowed me to gain substantial experience in litigation matters involving misappropriation of trade secret claims. My experience with intellectual property matters has extended over recent years to include the prosecution and defense of trademark and copyright claims. At certain points throughout my career, I have also had the opportunity to handle various construction related litigation matters, including significant pipeline construction litigation in the energy industry.

I have not served or registered as a lobbyist.

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

None.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business

relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I would anticipate some limited compensation for the surrender of my shareholder interest in Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.

I hold three real estate investment properties which are subject to residential leases.

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. However, I do hold three real estate investment properties which are subject to residential leases.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

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

I have a number of cases currently pending in the Northern District Court. I would recuse from any such cases. In addition, I would recuse from any case wherein a former client became a party to any litigation before the Court for some extended period of time. I would seek guidance on an appropriate time period for such recusals into the future, making sure to comply with all applicable Canons of the Code of Judicial Conduct.

Likely the largest category of litigation to be addressed in this manner would be litigation handled by any attorney in my present firm. I would recuse from any case wherein an attorney with Hall Estill is representing a party before the Court. I would also recuse from any case in which an attorney with Hall Estill is involved for some extended period of time. I would seek guidance on an

appropriate time period for such recusals into the future, making sure to comply with all applicable Canons of the Code of Judicial Conduct. My initial thought is that such recusals would be appropriate for at least two years.

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

Compliance with the Canons of the Code of Judicial Conduct at all times is essential. Should a conflict exist or appear to exist, recusal would be warranted and exercised without reservation to maintain the integrity of the Court. Should I perceive a potential conflict in any case, and after consideration become convinced that no conflict exists, I would be sure that, at a minimum, counsel and the parties were in agreement that no conflict exists before proceeding with the matter.

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

I represented one client through Legal Aid Services of Oklahoma in a foreclosure action. I have also mentored associates in working for clients through the Legal Aid program. However, the most significant responsibility I have felt compelled to fulfill is that of providing a long-standing legal counseling and mentorship role for a victim's family who I came to know as a result of the prosecution of a sexual abuse of a minor child case in 1999. Since leaving the District Attorney's Office to develop a civil practice, I have spent countless hours with this victim's family helping them deal with a multitude of legal issues, such as bankruptcy, landlord issues, child support issues, employment related issues, vehicle accidents, as well as assisting the children in the family deal with domestic abuse issues and drug related problems (with one child successfully completing the Tulsa County Drug Court Program). This has involved ongoing assistance periodically over the past 19 years, which continues to this day. Additionally, I have represented Crosstown Learning Center, a non-profit organization that provides education and care for children in working poor families, without charge on various legal matters, including the investigation and prosecution of an employee embezzlement matter which resulted in the return of all funds to this non-profit organization.

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 September 2017, I was contacted by a member of the advisory panel tasked with interviewing candidates and making recommendations to Senators Inhofe and Lankford for the position of U.S. District Judge for the Northern, Eastern and Western Districts of Oklahoma. I was asked if I had interested in serving in this position. In response, on September 11, 2017, I submitted a letter stating my interest, along with my resume, to Senator Lankford's office. On October 13, 2017, I interviewed with the Senators' advisory panel. I interviewed with Senator Lankford on November 20, 2017. I interviewed by telephone with members of Senator Inhofe's staff on December 4, 2017. Subsequently, I interviewed again with the advisory panel in June, 2019. I interviewed again with Senator Lankford on June 28, 2019. I also interviewed by telephone again with members of Senator Inhofe's staff on July 8, 2019. On August 21, 2019, Senator Lankford advised me that my name would be submitted to the White House for consideration. On August 29, 2019, I interviewed with members of the Office of White House Counsel and the Office of Legal Policy. Thereafter, I have communicated with the Office of White House Counsel and the Office of Legal Policy in the preparation of my responses to this questionnaire and/or to provide other related materials.

- 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.