

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	For Vicki Radd From Melanne Verveer re: Conservations Regarding Nomination (3 pages)	07/05/1994	b(6)
002. list	District Court Candidates - Pending (9 pages)	08/11/1994	b(6)
003. list	Status of Current ABA Referrals (2 pages)	08/10/1994	b(6)
004. list	Judicial Selection Group (7 pages)	n.d.	b(6)
005. list	Candidates for Kansas Vacancy on the U.S. Court of Appeals for the Tenth Circuit (3 pages)	n.d.	b(6)
006. resume	Bary Beck Briscoe (partial) (1 page)	n.d.	b(6)
007. profile	[profiles for various candidates including resumes] (58 pages)	n.d.	b(6)

COLLECTION:

Clinton Presidential Records
First Lady's Office
Melanne Verveer
OA/Box Number: 20039

FOLDER TITLE:

Judges

2013-0534-S

ry1591

RESTRICTION CODES

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Freedom of Information Act - [5 U.S.C. 552(b)]

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file Judge.

Arguments for Lynn Adelman

1. He would have an impact. The most glaring need on the 7th Circuit is for a judge who has the ability and the willingness to hold his own on a very conservative court. If the new judge is to have a significant impact on the Court he must be able both to persuade and to effectively challenge judges with very different points of view. The new judge must be tenacious but not antagonistic. Lynn Adelman is the only candidate who meets this test. He has passed numerous laws in a conservative legislature, and he has led the opposition in those instances where he could not muster a majority.
2. His nomination would be very well received by the Wisconsin media. The press is very supportive of Lynn Adelman partly because of his authorship of open meetings, open records, ethics and campaign finance laws.
3. He has a lot of Republican support. This would be very helpful during the confirmation process. Republican supporters include State Senators Ellis, Rude, Leann, Huelsman and Darling, former governor Lee Dreyfus, Speaker-elect Prosser, Congressman Petri, Congressman-elect Neumann, Ody Fish, a prominent Wisconsin Republican and friend of Bob Dole, Congressman Sensenbrenner, Sheldon Lubar, State Party Chair Dave Opitz, and leading Washington conservatives such as Burton Pines.
4. His nomination would be acceptable to all Democratic constituencies: labor, women, blacks, etc. because of his solid progressive record.
5. Clinton wants judges with a large vision based on broad experience in the real world. More than any candidate Adelman has this. He has run for office, he has run a law firm, he has argued in the Supreme Court, he has tried hundreds of cases and published important scholarly articles. He has by far the greatest breadth of experience of any candidate.

Adelman offers chance to bring Wisconsin values to court

By Bob Werde
Staff Writer

Our suburbs have a rare opportunity. Sometime next year we will have the chance to send a candidate to the United States Court of Appeals for the 7th Circuit Court.

The court is one of 11 circuits placed throughout the country. It consists of 11 justices, with two from Wisconsin appointed by the president. The primary function of the court is to solve disputes between parties within the context of monitoring what lower courts have decided and that those decisions follow precedent and are fair and just to both sides in a given dispute.

This can be dicey stuff. The decisions require the court to consider what the facts in a case are and how precedent, the Constitution and other factors enter into the decision of lower courts.

Lynn Adelman, a state senator who represents Greendale, Hales Corners, Franklin and Muskego as well as parts of Greenfield and New Berlin, is one of six finalists selected by a nominating commission.

Adelman is certainly worthy of the job and brings some hefty credentials to a court that has seen its share of criticism.

A study of the 7th Circuit Court released earlier this year on behalf of the Chicago Council of Lawyers paints a picture of a court that is preoccupied with procedure, one that places limits on attorneys, issues broad opinions that do not pertain to the facts and disputes of a given case and uses the bench as a platform for activism.

All this is to the detriment of fair and just decisions on cases before it.

To remedy the situation, the council recommends some or all of several criteria for incoming justices to improve the service to litigants and fulfillment of the court's mission:

- Justices should be appointed who have substantial defense, civil rights, pro bono (free) and legal aid experience.

- Substantial experience as a trial lawyer.

- The intellectual capacity to engage in principled argument with present judges, some of whom are considered



STATE SENATOR
LYNN ADELMAN

very capable on this score.

- Substantial experience in preparing, litigating and trying civil cases and an understanding of how trial court and appellate practice work.

- Experience in responding to the needs of clients and an understanding of what is needed in the court's decisions to guide clients' behavior and resolve real conflicts.

- Add to the diversity of the court's racial and/or gender diversity.

This list of attributes and experience could have been taken from Adelman's resume. He is uniquely qualified among the six candidates to fulfill the mission of the 7th Circuit Court.

Adelman earned his law degree from Columbia University Law School in 1965. He earned his bachelor's degree from Princeton University. He has been a practicing attorney since 1968. He spent two years as a trial attorney for the Legal Aid Society in New York City.

Since 1977 he has held the 28th District Senate seat in Wisconsin. During that time he has accomplished much:

- He has authored hundreds of pieces of legislation, some of which are considered landmark in nature.

- He has been instrumental in making government more accountable to citizens through creation of ethics codes, reform of lobby laws, protecting Wisconsin's open records law and creating legislation for public financing of campaigns for state office.

- Adelman's work as chairman of the Senate Judiciary Committee for 14 years afforded him the chance to protect individual's rights as well as prevent unfair or unsound legislation from ever reaching the Senate floor.

Adelman has demonstrated through his legislative experience that he would bring to the bench a new point of view regarding the intent of legislation and how that intent should affect the court's decisions.

He has published scholarly works regarding the law, argued many cases in a trial setting and even argued against Wisconsin's hate crime law before the United States Supreme Court because it punished people for their thoughts. A crime should carry one punishment, regardless of the motive of the perpetrator, he believes.

Adelman can add another positive quality to his list of attributes: the ability to create a consensus. He is a Democrat, elected since 1977 to represent a heavily Republican district. He has worked well with lawmakers from both sides of the aisle because his views resonate well with the voters he represents.

Taking into account what the court needs and what Adelman has to offer, Adelman is the clear-cut choice for the court, in our opinion.

Adelman would be a jurist for all people. He should get the job.

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THE WHITE HOUSE
WASHINGTON

August 11, 1994

STATUS OF JUDICIAL NOMINATIONS

1. Pending Nominations -- 27 (6 Ct. App.)
 - a. Awaiting votes -- 6 awaiting SJC vote (1 CA)
2 awaiting floor vote (1 CA)
 - b. Awaiting hearings -- 19 (4 CA)
2. Scheduled Hearings -- 6 tentative (2 Ct. App.)

Week of August 15:

 - (1) James Dennis (5th Cir./La.) or
David Tatel (D.C. Cir.)
 - (2) William Bryson (Fed. Cir.)
 - (3) Salvador Casellas (D.P.R.)
 - (4) Daniel Dominguez (D.P.R.)
 - (5) Samuel Paz (C.D. Cal.)
 - (6) Sarah Vance (E.D. La.)
3. Likely September Hearings -- 13 (2 Ct. App.)
 - (1) James Dennis (5th Cir./La.) or
David Tatel (D.C. Cir.)
 - (2) Diana Murphy (8th Circuit/Minn.)
 - (3) William Moore (S.D. Ga.)
 - (4) Stanwood Duval (E.D. La.)
 - (5) Catherine Perry (E.D. Mo.)
 - (6) Frederic Block (E.D.N.Y.)
 - (7) John Gleeson (E.D.N.Y.)
 - (8) Allyne Ross (E.D.N.Y.)
 - (9) Shira Scheindlin (S.D.N.Y.)
 - (10) Dominic Squatrito (D. Conn.)
 - (11) Robert Chatigny (D. Conn.)
 - (12) Judith McConnell (S.D. Cal.)
 - (13) David Hamilton (S.D. Ind.)

4. Nominations to Come -- 36 (5 Ct. App.)

a. August 12, 1994

- (1) Robert Cindrich (W.D. Pa.)
- (2) Sean McLaughlin (W.D. Pa.)
- (3) David Katz (N.D. Ohio)

b. August 15, 1994

- (1) Robert Gettleman (N.D. Ill.)
- (2) David Coar (N.D. Ill.)
- (3) Elaine Bucklo (N.D. Ill.)
- (4) Paul Riley (S.D. Ill.)

c. August 19, 1994

- (1) Charles Becton (4th Cir./N.C.)
- (2) Fred Parker (2d Cir./Vt.)
- (3) Helen Gillmor (D. Hi.)
- (4) James Beaty (M.D.N.C.)
- (5) David Briones (W.D. Tex.)
- (6) Alex Bartlett (W.D. Mo.)
- (7) Okla Jones (E.D. La.)
- (8) Tom Porteous (E.D. La.)
- (9) Sidney Stein (S.D.N.Y.)
- (10) John Reid Tait (D. Id.)
- (11) Alvin Thompson (D. Conn.)
- (12) Patrick Toole (M.D. Pa.)

d. September

- (1) Karen Moore (6th Cir./Ohio)
- (2) Carlos Lucero (10th Cir./Colo.)
- (3) Sandra Lynch (1st Cir./Mass.)
- (4) Curtis Collier (E.D. Tn.)
- (5) Kathleen O'Malley (N.D. Ohio)
- (6) Roslyn Moore-Silver (D. Ariz.)
- (7) Maxine Chesney (N.D. Cal.)
- (8) Eldon Fallon (E.D. La.)
- (9) David Folsom (E.D. Tx.)
- (10) Thad Heartfield (E.D. Tx.)
- (11) Vicki Miles-LaGrange (W.D. Ok.)
- (12) Sven Holmes (N.D. Ok.)
- (13) William Walls (D.N.J.)
- (14) Jim Robertson (D.D.C.)
- (15) Thomas Russell (W.D. Ky.)
- (16) Lacey Thornburgh (W.D.N.C.)
- (17) Thomas Whalen (N.D.N.Y.)

THE WHITE HOUSE

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AGENDA FOR 8/12/94 MEETING

- A. Status Report
- B. Court of Appeals Candidates
 - 1. Eleventh Circuit
 - 2. Tenth Circuit (Kansas)
 - 3. Court of International Trade
- C. District Court Candidates
 - 1. John Reid Tait (D.Idaho)
 - 2. Sidney Stein (S.D.N.Y.)
 - 3. Wenona Whitfield (S.D.Ill.)
 - 4. Ted Klein (S.D. Fla.)

CLINTON ADMINISTRATION JUDICIAL RECORD
August 15, 1994

ANALYSIS OF CONFIRMED JUDICIAL APPOINTMENTS:

Supreme:	02	African-Am:	22	(Cir 03, Dist 19)
Circuit:	13	Asian:	01	(Cir 00, Dist 01)
Trade:	00	Hispanic:	08	(Cir 03, Dist 05)
District:	70	Native American:	01	(Cir 00, Dist 01)
		Women:	30	(Sup 01, Cir 04, Dist 25)
Total:	85	W/Disabilities:	01	(Cir 00, Dist 01)

ANALYSIS OF JUDICIAL NOMINATIONS:

	<u>Clinton</u>	<u>Bush</u>	<u>Reagan</u>	<u>Carter</u>
No. of Nominations	119	79	79	53
Male	82	71	75	47
Female	37	8	4	6
White	80	75	76	43
African-Am	26	2	1	9
Hispanic/Other	13	2	2	1
Women and minorities	58%	13%	9%	28%
Rated "well qualified" by ABA	66%	52%	53%	57%

Note: The ABA data reflect all nominations by Presidents Bush, Reagan and Carter, not only nominations through this day in the second year of the terms.

ANALYSIS OF JUDICIAL VACANCIES:

	<u>Vacancies</u> a/o 08/15/94	<u>1/20/93</u> <u>Vacancies</u>
Dist. Ct. Vacancies	138 (43 since 1/20/93)	95
Cir. Ct. Vacancies	29 (10 since 1/20/93)	18
Sup. Ct. Vacancies	<u>2</u> (2 since 1/20/93)	<u>0</u>
	169	113
Confirmed:	<u>85</u> (70 Dist, 13 Cir, 2 Sup)	<u>72</u>
	84	41
Nominations pending:	<u>34</u> (28 Dist, 6 Cir)	<u>18</u>
	50	23
Active at ABA/FBI:	<u>22</u> (18 Dist, 4 Cir)	<u>14</u>
	28	9
On Hold:	<u>8</u>	<u>6</u>
	20	3
Identified candidates:	<u>10</u>	<u>2</u>
	10	1

THE WHITE HOUSE

WASHINGTON

August 11, 1994

MEMORANDUM FOR MEETING PARTICIPANTS -- JUDICIAL SELECTION

FROM: VICTORIA L. RADD *VR*

SUBJECT: JUDICIAL SELECTION MEETING

There will be a judicial selection meeting this Friday, August 12, 1994, at 9:30 a.m. in Lloyd Cutler's office.

Attached please find the District Court Update. Please feel free to call me with any questions.

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125_LANED/24754

August 5, 1994

AMERICAN BAR ASSOCIATION
STANDING COMMITTEE ON FEDERAL JUDICIARY

1994 - 1995
MEMBERS

CHAIR

WILLIAM E. WILLIS, ESQ. (Joyce)
Sullivan & Cromwell
125 Broad Street
New York, New York 10004-2498
Res: 190 Tekening Drive
Tenafly, New Jersey 07670
(201) 871-5310 (H)
Home Fax: (201) 871-5814
Sec: Kathleen Indelicato
(908) 251-3202 (H)
Home Fax: (908) 723-1135

(212) 558-3600
Fax: (212) 558-3588
Chair: 1994-1995
Term: 1994-1995

FIRST CIRCUIT

MICHAEL S. GRECO, ESQ. (Donna)
Hill & Barlow
One International Place
100 Oliver Street, 19th Floor
Boston, Massachusetts 02110
Res: 65 Livermore Road
Wellesley Hills, MA 02181
(617) 235-9372 (H)
Sec: Gail O'Connell
(508) 448-5146 (H)

(617) 439-3555
Fax: (617) 439-3580
Term: 1993-1996

SECOND CIRCUIT

ARNOLD I. BURNS, ESQ. (Felice)
Proskauer, Rose, Goetz & Mendelsohn
1585 Broadway
23rd Floor
New York, New York 10036
Res: 25 Sutton Place South
New York, New York 10022
(212) 935-1085 (H)
or
338 Dune Road
West Hampton, New York 11978
(516) 288-5025 (H)
Sec: Barbara Santasiere
(201) 413-1557 (H)

(212) 969-3230
Fax: (212) 969-2900
Term: 1992-1995

112 LANE/24751

THIRD CIRCUIT

VICTOR F. BATTAGLIA, ESQ. (Toni)
Biggs & Battaglia
1800 Mellon Bank Center
Tenth and Market Streets
P.O. Box 1489 (19809)
Wilmington, DE 19801

Res: 4812 Kennett Pike
Greenville, DE 18802
(302) 654-7621 (H)
Sec: Janice Raker

(302) 655-9577
Fax: (302) 655-7924

Term: 1993-1996

FOURTH CIRCUIT

J. HARDIN MARION, ESQ. (Heather)
Tydings & Rosenberg
100 East Pratt Street
Baltimore, Maryland 21202

Res: 103 Churchwarden's Road
Baltimore, Maryland 21212
(410) 435-4474 (H)
Sec: Sandy Ryan
(410) 752-9851 (O)
(410) 730-1196 (H)

(410) 752-9703
Fax: (410) 727-5460

Term: 1992-1995

FIFTH CIRCUIT

PIKE POWERS, JR., ESQ. (Pam)
Fulbright & Jaworski
2400 One American Center
600 Congress Avenue
Austin, Texas 78701

Res: 2904 Tarry Trail
Austin, Texas 78703
(512) 458-2020 (H)
Home Fax: (512) 458-2098
Sec: Vicki Hanna
(512) 343-1138 (H)

(512) 320-4501
Fax: (512) 322-2448

Term: 1993-1996

125 LANZZ/24758

SIXTH CIRCUIT

CHARLES E. ENGLISH, ESQ. (Barbara)
English, Lucas, Priest & Owsley
1101 College Street
P.O. Box 770

(502) 781-6500
Fax: (502) 782-7782

Term: 1994-1997

Bowling Green, Kentucky 42102-0770
Res: 1917 Nashville Road
Bowling Green, Kentucky 42101
(502) 841-9517 (H)
Sec: Jane Skillern
(502) 777-3258 (H)

SEVENTH CIRCUIT

THOMAS Z. HAYWARD, JR., ESQ. (Sally)
Bell, Boyd & Lloyd
70 west Madison Street
Suite 3200

(312) 372-1121
Direct: (312) 807-4340
Fax: (312) 372-2098

Term: 1994-1997

Chicago, Illinois 60602-4207
Res: Rt. 2, Box 8, West County Line Road
Barrington Hills, IL 60010
(708) 381-0025 (H)
Asst: Tanya Tomic
(312) 558-5093 (O)
(312) 583-0635 (H)

EIGHTH CIRCUIT

JAMES E. MCDANIEL, ESQ. (Mary Jane)
Lashly & Baer, P.C.
714 Locust Street
St. Louis, Missouri 63101

(314) 621-2939
Direct: (314) 436-8331
Fax: (314) 621-6844

Term: 1992-1995

Res: 767 Elmwood
Glendale, Missouri 63122
(314) 961-2767 (H)
Sec: Jan Upton
(618) 397-8259 (H)

125_LAM02/24758

NINTH CIRCUIT

LEMBHARD G. HOWELL (Pat)
Law Offices of Lemkhard G. Howell, P.S.
Arctic Building
700 Third Avenue
Seattle, Washington 98104

Res: 814 Lakeside Avenue South
Seattle, Washington 98144
(206) 328-2572 (H)

Sec: Judy Olson
(206) 277-8594 (H)

(206) 623-5296
Fax: (206) 629-6474

Term: 1993-1996

RICHARD M. MACIAS

Borton Petrini & Conron
624 South Grand Avenue
Los Angeles, CA 90017

Res: 2741 Prewett Street
Los Angeles, CA 90031
(213) 224-3906 (H)

Sec: Tina Guevara
(310) 928-2571 (H)

(213) 624-2869
Fax: (213) 489-3930

Term: 1994-1997

TENTH CIRCUIT

MONA S. LAMBIRD (Perry)
Andrews Davis Legg Bixler
Milsten & Price

500 West Main
Oklahoma City, OK 73102-2275

Res: 419 NW 14th Street
Oklahoma City, OK 73103
(405) 239-2974 (H)

Sec: Betty Richards
(405) 722-5514 (H)

(405) 272-9241
Direct: (405) 235-8783
Fax: (405) 235-8786

Term: 1994-1997

125 LAN02/24758

ELEVENTH CIRCUIT

SYLVIA H. WALBOLT, ESQ. (Dan)
Carlton, Fields, Ward,
Emmanuel, Smith & Cutler, PA
Barnett Tower, Suite 2300
One Progress Plaza
St. Petersburg, FL 33701
Res: 6128 Kipps Colony Drive West
Gulf Port, FL 33707
(813) 344-3607 (H)
Sec: Rita C. Osbourne
(813) 985-4079 (H)

(813) 821-7000
Direct: (813) 824-0010
Fax: (813) 822-3768

Term: 1994-1997

FEDERAL CIRCUIT

MORTIMER M. CAPLIN, ESQ. (Ruth)
Caplin & Drysdale
One Thomas Circle, N.W.
Suite 1100
Washington, D.C. 20005
Res: 5610 Wisconsin Avenue
Chevy Chase, MD 20815-4415
(301) 654-0011 (H)
or
360 Ardwood Road
Earlsville, VA 22936
(804) 973-4606 (H)
Sec: Donald E. Beatty
(703) 476-5554 (H)

(202) 862-5050
Fax: (202) 429-3301

Term: 1993-1996

D.C. CIRCUIT

CAROLYN B. LAMM, ESQ. (Peter Halle)
White & Case
1747 Pennsylvania Avenue, N.W.
Suite 500
Washington, D.C. 20006-4604
Res: 2801 Chesterfield Place, N.W.
Washington, D.C. 20008
(202) 966-2801 (H)
Home Fax: (202) 966-1231
or
Hill House
Route 7A
Arlington, VT 05250
(802) 375-9001 (H)
Adm. Asst: Sue Chapin
(202) 537-7031 (H)
Sec: Guadie M. Montesa
(703) 680-7359 (H)
(703) 978-3703 (H)

(202) 872-0013
Fax: (202) 872-0210

Term: 1993-1996

125 LAMR/24788

SPECIAL ADVISORSSECOND CIRCUIT

PATRICIA M. HYNES, ESQ. (Roy L. Reardon) (212) 594-5300
Milberg, Weiss, Bershad, Hynes & Lerach Fax: (212) 868-1229
One Pennsylvania Plaza Direct Fax: (212) 695-7735
New York, New York 10119-0165
Res: 1148 Fifth Avenue Term: 1994-1995
Apt. 12A
New York, New York 10128
(212) 410-5339 (H)
Sec: Claire Lew
(718) 935-1359 (H)

FIFTH CIRCUIT

JUDY PERRY MARTINEZ (Rene) (504) 569-2030
Simon Peragine Smith & Redfearn Direct: (504) 569-2914
30th Floor, Energy Center Fax: (504) 569-2999
1100 Poydras Street
New Orleans, LA 70163 Term: 1994-1995
Res: 1724 Valerice Street
New Orleans, LA 70115
(504) 895-4747 (H)
Sec: Marilyn Baroni
(504) 348-0661 (H)

NINTH CIRCUIT

JANE H. BARRETT (Gregory Long) (213) 624-2395
Preston Gates & Ellis Direct: (213) 217-4305
Sanwa Bank Plaza Fax: (213) 624-5924
601 South Figueroa, Ste 3450
Los Angeles, CA 90017 Term: 1994-1995
Res: 2315 Live Oak Drive East
Los Angeles, CA 90068
(213) 467-8699 (H)
Sec: Sydney Etter
(213) 298-4888 (H)

125_LAN02/24758

SPECIAL ADVISORS (cont'd)D.C. CIRCUIT

MYLES V. LYNK

Dewey Ballantine

1775 Pennsylvania Avenue NW

Washington, D.C. 20006

Res: 4400 Garrison Street, NW

Washington, DC 20016

(202) 686-8673 (H)

Sec: Audrey Owens

(212) 862-1017 (O)

(202) 862-1047

Fax: (202) 862-1093

Term: 1994-1995

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005. list	Candidates for Kansas Vacancy on the U.S. Court of Appeals for the Tenth Circuit (3 pages)	n.d.	b(6)

COLLECTION:

Clinton Presidential Records
First Lady's Office
Melanne Vermeer
OA/Box Number: 20039

FOLDER TITLE:

Judges

2013-0534-S
ry1591

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. resume	Bary Beck Briscoe (partial) (1 page)	n.d.	b(6)

COLLECTION:

Clinton Presidential Records
First Lady's Office
Melanne Verveer
OA/Box Number: 20039

FOLDER TITLE:

Judges

2013-0534-S
ry1591

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RESUME

MARY BECK BRISCOE

[006]

Office Address:

301 W. 10th
Topeka, Kansas 66612
(913) 296-5410
FAX (913) 296-1863

Home Address:

(b)(6)

Married:

Charles A. Briscoe, Attorney
Sole Practitioner, Topeka, Kansas

Born:

(b)(6)

Council Grove, Kansas

Education:

Parkerville Grade School, Parkerville, Kansas
Dwight Rural High School, Dwight, Kansas
University of Kansas 1965-1969
BA degrees, double majors: German and
Political Science (International Relations)
University of Kansas School of Law 1970-1973
Juris Doctor degree
University of Virginia School of Law
LLM degree May 1990
Thesis topic: "When One Panel of an
Intermediate Court Speaks, Must Other
Panels of the Same Court Listen?"

Practice of Law:

Admitted: Kansas Bar, Supreme Court of Kansas,
Federal District Court of Kansas 1973; Tenth
Circuit Court of Appeals 1974; Supreme Court of
the United States 1980.

Employment:

Attorney-Examiner, Financial Division,
Interstate Commerce Commission, Washington,
D.C., September 1973 to March 1974.

Assistant United States Attorney, Department
of Justice, Wichita and Topeka, March 1974 to
March 1984.

Judge, Kansas Court of Appeals, Topeka, March
1984 to present.

Chief Judge, Kansas Court of Appeals, Topeka,
September 1990 to present.

Activities, Honors, and Awards:

University of Kansas 1965-1969:

Dean's Honor Roll for seven semesters

As an undergraduate, I was a recipient of the following scholarships: Emily V. Berger; Elks; Pi Beta Phi; Foreign Study; EOG Grant and Scholarship Hall Scholarship. I was awarded the Scholarship Hall Scholarship as an entering freshman and was a recipient for each of my undergraduate years. While a resident of the Hall, I was elected vice president and treasurer.

Foreign Language Institute. In 1966, I was selected by competitive testing to study German in Holzkirchen, Germany.

All University Residence Hall Honorary

All Women's Society Representative

Model United Nations, delegate for two years

German poem chosen for publication: "Die Versunkende Liebe," appearing in the annual University of Kansas German Department publication, Versuch, 1967-68.

University of Kansas School of Law 1970-1973:

Summer Legal Internship for Prosecutors, funded through LEAA, summer of 1972.

Dwight David Eisenhower International Law Society, member and executive secretary

Post-Law School

Fellow, American Bar Foundation

Executive Committee of Council of Chief Judges, appointed November 1991

Secretary of Council of Chief Judges, elected October 1993

Education chair, Council of Chief Judges, 1993-1994

Scholarship committee, Council of Chief Judges, 1992-1993

Program Committee, Council of Chief Judges, 1991-1992

Nominating Committee, Appellate Judges Conference, American Bar Association

Kansas Judicial Council 1985-1993, served on Civil Code Committee of Council

Fellow, Kansas Bar Foundation

Kansas Bar Association, Member

Awarded KBA Outstanding Service Award 1992

Task Force on Status of Women in the Legal Profession, Chair, 1989-1992

IOLTA Committee 1985 to present

Licensure Committee 1986

Vol		Pg		Shpana	Jan 91	March 91	90-92
707	01	✓	City of Wichita v. Ohlerking, 10 Kan. App. 2d 638 (1985) ¹⁹	x	x	x	>
708	991	✓	State v. Hanks, 10 Kan. App. 2d 666 (1985) ²⁰	x	x	x	x
709	988	✓	State v. Linsin, 10 Kan. App. 2d 681 (1985) ²¹	x	x	x	x
711	759	✓	State v. Baker, 11 Kan. App. 2d 4 (1985) ²²	x	x	x	x
712	1282	✓	Miller v. Safeco Ins. Co. of America, 11 Kan. App. 2d 91 (1986) ²³	x	x	x	x
715	1038	✓	Bigger v. Kansas Dept. of Revenue, 11 Kan. App. 2d 108 (1986) ²⁴	x	x	x	x
715	421	✓	Asay v. American Drywall, 11 Kan. App. 2d 122 (1986) ²⁵	x	x	x	x
715	1295	✓	A & M Oil, Inc. v. Miller, 11 Kan. App. 2d 152 (1986) ²⁶	x	x	x	x
717	531	✓	Smith v. Frazier, 11 Kan. App. 2d 212 (1986) ²⁷	x	x	x	>
719	750	✓	In re Appeal of Ball, 11 Kan. App. 2d 216 (1986) ²⁸	x	x	x	x
719	206	✓	Winner v. Flory, 11 Kan. App. 2d 263 (1986) ²⁹	x	x	x	x
720	1137	✓	Smith v. Dunn, 11 Kan. App. 2d 343 (1986) ³⁰	x	x	x	x
727	928	✓	Worthington v. Miller, 11 Kan. App. 2d 396 (1986) ³¹	x	x	x	-
724	699	✓	City of Wichita v. Hull, 11 Kan. App. 2d 441 (1986) ³²	x	x	x	>
726	287	✓	Wichita Wire, Inc. v. Lenox, 11 Kan. App. 2d 459 (1986) ³³	x	x	x	x
726	1347	✓	State v. Olson, 11 Kan. App. 2d 485 (1986) ³⁴	x	x	x	x
730	1104	✓	State v. Clark, 11 Kan. App. 2d 586 (1986) ³⁵	x	x	x	x
732	780	✓	State v. Brewer, 11 Kan. App. 2d 655 (1987) ³⁶	x	x	x	x
733	834	✓	In re Estate of Morton, 12 Kan. App. 2d 26 (1987) ³⁷	x	x	x	*
734	1195	✓	In re J.G., 12 Kan. App. 2d 44 (1987) ³⁸	x	x	x	x
736	78	✓	Crooks v. Greene, 12 Kan. App. 2d 62 (1987) ³⁹	x	x	x	x
737	52	✓	Beneficial Finance Co. v. Schroeder, 12 Kan. App. 2d 150 (1987) ⁴⁰	x	x	x	+
740	617	✓	State v. Waldschmidt, 12 Kan. App. 2d 284 (1987) ⁴¹	x	x	x	x
743	559	✓	In re Appeal of News Publishing Co., 12 Kan. App. 2d 328 (1987) ⁴²	x	x	x	x
744	140	✓	State v. Kirby, 12 Kan. App. 2d 346 (1987) ⁴³	x	x	x	x
747	174	✓	Mattox v. Department of Transportation, 12 Kan. App. 2d 403 (1987) ⁴⁴	x	x	x	x
747	183	✓	Consolidated Oil Well Serv., Inc. v. State Oil Co., 12 Kan. App. 2d 422 (1987) ⁴⁵	x	x	x	x
746	1068	✓	Kenneth Godfrey Aviation, Inc. v. Smith, 12 Kan. App. 2d 434 (1987) ⁴⁶	x	x	x	x
748	430	✓	Thompson v. Harold Thompson Trucking, 12 Kan. App. 2d 449 (1987) ⁴⁷	x	x	x	x
749	40	✓	Denno v. Denno, 12 Kan. App. 2d 499 (1988) ⁴⁸	x	x	x	x
750	418	✓	Frazee v. Maschner, 12 Kan. App. 2d 525 (1988) ⁴⁹	x	x	x	x
752	690	✓	Robertson v. Ludwig, 12 Kan. App. 2d 571 (1988) ⁵⁰	x	x	x	x
753	304	✓	In re Tax Appeal of Newton Country Club Co., 12 Kan. App. 2d 638 (1988) ⁵¹	x	x	x	x
754	810	✓	Moody Investments, Inc. v. Baldwin, 12 Kan. App. 2d 686 (1988) ⁵²	x	x	x	x
758	220	✓	Angle v. Kansas Dept. of Revenue, 12 Kan. App. 2d 686 (1988) ⁵³	x	x	x	x
761	315	✓	Farmers State Bank v. Ward, 13 Kan. App. 2d 39 (1988) ⁵⁴	x	x	x	+
761	317	✓	State v. Quarles, 13 Kan. App. 2d 51 (1988) ⁵⁵	x	x	x	+
762	198	✓	In re Estate of Forrester, 13 Kan. App. 2d 98 (1988) ⁵⁶	x	x	x	+

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764	1256	Western Casualty & Surety Co. v. Trinity Universal Ins. Co., 13 Kan. App. 2d 133 (1988) ⁵⁷	X	X	X
765	167	Woodhead v. Kansas Dept. of Revenue, 13 Kan. App. 2d 145 (1988) ⁵⁸	X	X	X
766	823	Nutt v. Knutson, 13 Kan. App. 2d 169 (1988) ⁵⁹	X	X	*
766	191	Fidelity & Deposit Co. of Maryland v. Shawnee State Bank, 13 Kan. App. 2d 182 (1988) ⁶⁰	X	X	X
766	837	Eterakeya v. Twin City State Bank, 13 Kan. App. 2d 197 (1988) ⁶¹	X	X	X
767	851	Robinson v. State, 13 Kan. App. 2d 244 (1989) ⁶²	X	X	+
769	34	State v. Webb, 13 Kan. App. 2d 300 (1989) ⁶³	X	X	+
776	477	State v. Windes, 13 Kan. App. 2d 577 (1989) ⁶⁴	X	X	+
776	1204	Boyce v. Boyce, 13 Kan. App. 2d 585 (1989) ⁶⁵	X	X	+
779	437	State v. Saeger, 13 Kan. App. 2d 726 (1989) ⁶⁶	X	X	+
779	462	Cedar Creek v. Johnson Co. Comm., 13 Kan. App. 2d 734 (1989) ⁶⁷	X	X	+
780	168	State v. Garrett, 14 Kan. App. 2d 8 (1989) ⁶⁸	X	X	X
783	1310	Corbet v. Board of Shawnee County Comm's, 14 Kan. App. 2d 123 (1989) ⁶⁹	X	X	X
786	623	State v. Kelly, 14 Kan. App. 2d 182 (1990) ⁷⁰	X	X	+
786	618	Hatfield v. Wal-Mart Stores, Inc., 14 Kan. App. 2d 193 (1990) ⁷¹	X	X	X
789	1204	McLain v. State, 14 Kan. App. 2d 329 (1990) ⁷²	X	X	X
793	1261	State v. King, 14 Kan. App. 2d 478 (1990) ⁷³	X	X	+
804	353	Newman v. Board of Shawnee County Comm's, 14 Kan. App. 2d 648 (1990) ⁷⁴	X	X	+
799	94	Bick v. Peat Marwick & Main, 14 Kan. App. 2d 699 (1990) ⁷⁵	X	X	X
798	511	Mark Twain Kansas City Bank v. Kroh Bros. Dev. Co., 14 Kan. App. 2d 714 (1990) ⁷⁶	X	X	X
801	591	State v. Moon, 15 Kan. App. 2d 4 (1990) ⁷⁷	X	X	*
803	201	In re Marriage of McPheter, 15 Kan. App. 2d 47 (1990) ⁷⁸	X	X	+
806	485	Barrett v. Ninnescah Bow Hunters Ass'n, 15 Kan. App. 2d 241 (1991) ⁷⁹	X	X	+
807	171	State v. McNett, 15 Kan. App. 2d 291 (1991) ⁸⁰	X	X	+
808	889	Guillan v. Watts, 15 Kan. App. 2d 405 (1991) ⁸¹	X	X	+
808	1367	State v. Grimsley, 15 Kan. App. 2d 441 (1991) ⁸²	X	X	+
808	907	Belt v. Shepard, 15 Kan. App. 2d 448 (1991) ⁸³	X	X	X
812	76	Lamb v. Kansas Parole Board, 15 Kan. App. 2d 606 (1991) ⁸⁴	X	X	+
814	452	State v. Zirkle, 15 Kan. App. 2d 674 (1991) ⁸⁵	X	X	X
815	124	In re Marriage of Nice, 15 Kan. App. 2d 717 (1991) ⁸⁶	X	X	+
816	409	Schad v. Hearthstone, 16 Kan. App. 2d 50 (1991) ⁸⁷	X	X	+
823	201	State v. Hill, 16 Kan. App. 2d 280 (1991) ⁸⁸	X	X	
823	810	Dietz v. Atchison, Topeka & Santa Fe Rwy Co., 16 Kan. App. 2d 342 (1991) ⁸⁹	X	X	
825	531	Musick v. Kansas Dept. of Revenue, 16 Kan. App. 2d 462 (1992) ⁹⁰	X	X	
825	541	State v. Smith, 16 Kan. App. 2d 478 (1992) ⁹¹	X	X	
827	780	Ostmeyer v. Kansas Dept. of Revenue, 16 Kan. App. 2d 639 (1992) ⁹²	X	X	

		June 94			June 94		90-92	
Vol	R							
828	949	✓	Everett v. Topeka Correctional Facility, 16 Kan. App. 2d 739 (1992) ⁹³	+	X			
835	692	✓	Justice v. Board of Wyandotte County Comm'rs, 17 Kan. App. 2d 102 (1992) ⁹⁴	+	X			
836	584	✓	State v. Dugan, 17 Kan. App. 2d 340 (1992) ⁹⁵	+	X			
839	555	✓	Washington v. State, 17 Kan. App. 2d 518 (1992) ⁹⁶	+	X			
842	319	✓	Dillon's Food Stores, Inc. v. Brosseau, 17 Kan. App. 2d 657 (1992) ⁹⁷	+	X			
844	41	✓	Dannenfelser v. Employment Security Board, 17 Kan. App. 2d 755 (1992) ⁹⁸	+	X			
845	65	✓	Baumann v. Excel Industries, Inc., 17 Kan. App. 2d 807 (1993) ⁹⁹	X	X			
847	135	✓	State v. Lowe, 18 Kan. App. 2d 72 (1993) ¹⁰⁰	X	X			
847	1350	✓	Fennesy v. LBI Mgmt, 18 Kan. App. 2d 61 (1993) ¹⁰¹	X	X			
848	1000	✓	Martin v. Johnson Co., 18 Kan. App. 2d 149 (1993) ¹⁰²	X	+			
850	947	✓	In re T.D.W. and S.W., 18 Kan. App. 2d 286 (1993) ¹⁰³	X	+			
851	102	✓	State v. Barker, 18 Kan. App. 2d 292 (1993) ¹⁰⁴	+	+			
851	1385	✓	Karhoff v. Nat'l Mills, 18 Kan. App. 2d 302 (1993) ¹⁰⁵	+	X			
854	315	✓	Zurawski v. Dept. Revenue, 18 Kan. App. 2d 325 (1993) ¹⁰⁶	+	+			
856	934	✓	State v. Finley, 18 Kan. App. 2d 419 (1993) ¹⁰⁷	+	+			
857	1380	✓	Carmichael v. State, 18 Kan. App. 2d 435 (1993) ¹⁰⁸	+	+			
856	1357	✓	Lamb v. City of Elsmore, 18 Kan. App. 2d 641 (1993) ¹⁰⁹	+	+			
859	387	✓	Lincoln v. Dept. of Revenue, 18 Kan. App. 2d 635 (1993) ¹¹⁰	+	+			
858	1242	✓	State v. Rush, 18 Kan. App. 2d 694 (1993) ¹¹¹	+	+			
860	51	✓	In re Marriage of Hansen, 18 Kan. App. 2d 712 (1993) ¹¹²	+	+			
859	414	✓	In re Habeas Corpus Application of Coulter, 18 Kan. App. 2d 795 (1993) ¹¹³	+	+			
859	977	✓	Varner v. Gulf Ins. Co., 18 Kan. App. 2d 801 (1993) ¹¹⁴	+	+			
861	830	✓	Muzingo v. Vaught, 18 Kan. App. 2d 823 (1993) ¹¹⁵	+	+			
			McConwell v. FMG, 18 Kan. App. 2d 839 (1993) ¹¹⁶	+	+			

General Nature of Current and Prior Practice:

I am presently the Chief Judge of the Kansas Court of Appeals. There are ten judges on the Court of Appeals. Our court sits in panels of three and travels throughout the state to hear oral arguments in cases appealed from trial courts, administrative boards, and commissions. I have heard cases concerning every area of civil and criminal law, as is evidenced by the listing of my published cases. Since coming to the bench in 1984, I have had the opportunity to hear and decide over 2000 cases. I have written over 700 opinions, including 110 published opinions. Since my appointment as Chief Judge, I have also handled the court's administration. This responsibility has included case management, budget, and personnel.

Each judge on our court hears 15 cases every three weeks and is responsible for writing opinions on 5 of the cases. Our court sits in multiple panels 17 times per year. The majority of our time is consumed by reading briefs and prehearing memoranda in preparation for arguments, conferencing the cases after arguments, and researching and writing opinions. The quantity of our work is demanding. We are

challenged daily to provide a reasoned resolution for all issues presented, whether novel or routine.

Prior to my becoming an appellate judge in the state court system, I was a full-time trial attorney in the federal court system. As an Assistant United States Attorney, I had two general areas of legal practice, criminal and civil. The office of the United States Attorney is responsible for the prosecution of federal crimes, as well as state crimes which occur on federal property, and for the pursuit of civil actions brought either on behalf of, or against, the United States, its agencies and employees. Although the general public may perceive that the work of the United States Attorney's office is primarily in criminal law, the contrary is true. Historically, over 80 percent of the pending cases in the Wichita, Topeka, and Kansas City offices of the United States Attorney are civil in nature.

The role of an Assistant United States Attorney is that of a trial attorney. Although the various federal agencies have attorneys on its staffs, these attorneys can only represent their agencies in administrative hearings and they cannot independently appear in state or federal courts or sign legal pleadings for submission to those courts. Therefore, the office of the United States Attorney is vested with the authority and responsibility for the representation of the federal agencies whenever the agencies appear as either plaintiffs or defendants in civil litigation. This responsibility also includes representation of employees of federal agencies whenever they are named as defendants in their individual capacities.

During my ten-year tenure, I represented the following federal agencies and their employees on a regular basis: Internal Revenue Service, Treasury Department, Federal Aviation Administration, Department of the Interior, Veterans' Administration, Department of Agriculture, Department of Health and Human Services, Small Business Administration, Department of the Army, Department of Housing and Urban Development, Bureau of Prisons, Parole Commission, and the Postal Service. This representation included the defense of federal employees who were sued in their individual capacities and who were subject to having judgment entered against them (Bivens actions). During my tenure with the United States Attorney's office, the case work included: federal criminal prosecution; civil litigation in both state and federal courts; criminal and civil appellate practice before the Tenth Circuit Court of Appeals; bankruptcy; and collections.

When I began my work with the United States Attorney's office, I prosecuted criminal cases and represented the Bureau of Prisons and its employees in suits brought by or on behalf of inmates in Leavenworth Penitentiary. My first criminal prosecution was an illegal wiretap case which I tried before Judge Frank Theis in Wichita in April 1974. Other criminal prosecutions followed which involved both court and jury trials. I have also written no less than ten criminal appellate briefs which were filed with the Tenth Circuit Court of Appeals. This criminal appellate practice also included oral argument before the circuit court.

My work assignment evolved during my first two and one-half years in the office to include all of the litigation which originated at the federal penitentiary at Leavenworth. This included both civil and criminal cases, which encompassed the following causes of action: habeas corpus, personal injury, loss of property, medical malpractice, and deprivation of constitutional rights. The caseload in this area was quite heavy. At any given time, I had responsibility for at least 60-80 open case files in federal district court, as well as 20-30 cases pending on appeal before the circuit court. During the period of time I worked in this area, I handled 836 cases from beginning to end in district court and 189 appeals.

My casework involved legal research, brief writing, oral argument, and trial. While assigned to prisoner litigation, I had approximately 10 trials per year and no less than 20 oral arguments on motions to dismiss or for summary judgment. During this time, the prisoner litigation was assigned to all of the judges in the district on a monthly rotation basis and, therefore, I had an opportunity to try cases before our entire federal bench.

In 1977, my work assignment changed dramatically. I was assigned all non-prisoner civil cases pending in the federal district court in Topeka, as well as all bankruptcies, state court litigation, and collections. By 1979, the civil caseload had greatly increased and more attorneys were added to our office. With additions to our staff, the bankruptcy and state court cases were reassigned to other attorneys and I continued to work on complex civil litigation. At that point, I averaged 45 open case files, including cases on appeal. I also continued to handle collections for the district, with the help of a paralegal and collection clerk. In April 1982, I was appointed as the Supervisory Attorney for the Topeka office. There was a staff of five Assistant United States Attorneys and 11 clerical employees in our office. In my capacity as Supervisory Attorney, I was responsible for the day-to-day supervision of the office, including defining the job descriptions of all of the clerical staff and shifting work assignments when crises arose. As regards the attorney staff, I determined case assignments to insure equal case distribution, and I coordinated with the United States Attorney and the Supervisory Attorneys in the Wichita and Kansas City offices on all policy decisions regarding major civil and criminal cases. This administrative responsibility was rewarding as I had direct input in policy and personnel decisions which improved the efficiency of the office.

I have prosecuted and defended civil cases on behalf of the United States. As a plaintiff's counsel, I have initiated cases seeking judgments for civil conversion, fraud, civil penalty, and, of course, foreclosure. I have also defended suits brought against the United States for causes of action sounding in tort and contract, as well as suits alleging violation of constitutional and statutory rights. My ten years of federal practice encompassed every area of the law normally handled by an attorney in private practice, except domestic relations.

An example of a significant case which I tried was *David L. Klepper v. United States v. The City of Milford*, Case No. 80-1728. This case was a personal injury action brought by a person who became a quadriplegic after he dove into two feet of water near a boat dock located on Milford reservoir. The plaintiff sought damages of one million dollars from the United States. The plaintiff contended the Corps of Engineers, by virtue of its administration of the federal reservoir at Milford, had knowledge that the water was shallow in the area adjacent to the boat dock where the plaintiff was injured and therefore the Corps had a duty to warn the plaintiff by posting warning signs prohibiting diving. The issue before the court was whether the Corps willfully failed to warn the plaintiff of a dangerous condition.

In a motion for summary judgment which was filed in the case, I raised the issue of whether the plaintiff had stated a cause of action against the Corps. The plaintiff had first asserted that the Corps was guilty of only simple negligence and not willful negligence. Under Kansas law, specifically the Kansas Recreational Use Act, K.S.A. 58-3201 et seq, a landowner who opens his land to the public for recreational use and enjoyment owed no duty of care to members of the public, unless the landowner is found to have willfully failed to warn of the presence of a dangerous condition. Under the facts of this case, the Corps, as a landowner, would have been entitled to summary judgment because of the plaintiff's failure to allege willful negligence. Although the plaintiff avoided summary judgment by obtaining leave to amend his complaint to allege willfulness, the court in subsequent rulings on motions raised before and during trial followed the theories raised in my pleadings and applied the Kansas Recreational Use Act in its determination of potential liability of the Corps of Engineers.

Prior to suing the Corps, the plaintiff also sued the City of Milford in a separate action. That case, *David L. Klepper v. The City of Milford*, Case No. 79-4237, was tried immediately before my case was tried. When the trial against the City was concluded, a second significant issue arose in my case: whether a litigant is permitted to pursue two trials to determine the comparative fault of the parties involved in a single occurrence. This issue was raised in a motion to dismiss which I filed on behalf of the Corps, and which outlined the Kansas comparative fault statutes and explained to the court the interpretation given to those statutes by the Kansas Supreme Court and the Kansas Court of Appeals. It was my theory that a plaintiff must name all parties against whom he seeks recovery in one lawsuit. It was my contention that the plaintiff was not entitled to a second trial against the Corps to determine the comparative fault of the parties to the diving accident. The court reserved ruling on my motion and we tried the case in December 1983. The court subsequently denied my motion to dismiss, but entered judgment in favor of the United States on the merits.

Another significant case which I litigated from 1977 until 1984 was *Robert C. Focke, Executor of the Estate of Jerry P. Bent, deceased, et al. v. United States of America*, Case No. 77-4121. This case involved a

novel factual setting. The gravamen of the claims asserted by the plaintiffs concerned the seduction and resultant sexual acts committed by a former Veteran's Administration employee with the wife and 15-year-old daughter of a VA patient. The employee was charged and convicted of the federal crime of having carnal knowledge with a female under the age of 16 on a federal reservation, a violation of 18 U.S.C. § 2302. Following the criminal conviction of the employee, a civil action was filed by the plaintiffs, alleging they were entitled to recover five million dollars because the VA was negligent in hiring, training, and supervising the employee.

I independently handled all phases of the litigation, including discovery, legal research, preparation of pretrial motions, and selection and interviews of defense witnesses. I also appeared at all pretrial motions and oral arguments. Trial of the case was held in February 1981 and lasted five days. At the conclusion of the trial, the court ruled in favor of the VA, denying any recovery on behalf of the plaintiffs. The case was then appealed to the Tenth Circuit Court of Appeals, where the appellants contended the court erred in (1) failing to reach the correct legal test with respect to scope of employment; (2) concluding that the United States was not liable for the employee's acts under the doctrine of apparent authority; (3) concluding that the United States was not negligent in the supervision of the employee; (4) failing to apply correctly the law to the facts concerning the United States' liability; and (5) failing to address plaintiffs' contention that the United States was negligent in selecting unqualified persons to attempt to provide treatment. I prepared the appellate brief for the VA countering these contentions. The district court's decision was affirmed in January 1985 on all issues.

Cases I Tried to Conclusion Which Resulted in Published Opinions:

Security Benefit Life Ins. Co. v. United States, 726 F.2d 1491 (10th Cir. 1984)
Hamilton v. N.E. Kansas Health Systems Agency, 701 F.2d 860 (10th Cir. 1983)
Griffin v. United States, 644 F.2d 846 (10th Cir. 1981)
Zeidler v. United States, 601 F.2d 527 (10th Cir. 1979)
Evers v. United States, 579 F.2d 71 (10th Cir. 1978)
United States v. Bambulas, 571 F.2d 525 (10th Cir. 1978)
Robinson v. Benson, 570 F.2d 920 (10th Cir. 1978)
United States v. Cox, 567 F.2d 930 (10th Cir. 1977)
Burke v. United States Dept. of Justice, 559 F.2d 1182 (10th Cir. 1977)
Dye v. United States Parole Commission, 558 F.2d 1376 (10th Cir. 1977)
Coronado v. United States Bd. of Parole, 551 F.2d 275 (10th Cir. 1977)
Mack v. McCune, 551 F.2d 251 (10th Cir. 1977)

Mower v. Swyhart, 545 F.2d 103 (10th Cir. 1976)
Goode v. McCune, 543 F.2d 751 (10th Cir. 1976)
Woods v. Daggett, 541 F.2d 237 (10th Cir. 1976)
Robinson v. McCune, 536 F.2d 1340 (10th Cir. 1976)
Stevens v. Warden, U.S. Penitentiary, Leavenworth,
536 F.2d 1334 (10th Cir. 1976)
Marchesani v. McCune, 531 F.2d 459 (10th Cir. 1976)
Hedman v. United States, 527 F.2d 20 (10th Cir. 1975)
Suggs v. Daggett, 522 F.2d 396 (10th Cir. 1975)
United States v. Smith, 521 F.2d 374 (10th Cir. 1975)
Kerli v. Sprinkle, 524 F.2d 328 (10th Cir. 1975)
Focke v. United States, 597 F.Supp. 1325 (D.Kan.1982)
White v. United States, 510 F.Supp. 146 (D.Kan.1981)
Gray v. Benson, 443 F.Supp. 1284 (D.Kan. 1978)
Burke v. Department of Justice,
432 F.Supp. 251 (D.Kan. 1976)
Ruffin v. McCune, 414 F.Supp. 286 (D.Kan.1976)
Cox v. Sigler, 414 F.Supp. 200 (D.Kan.1976)
Mitchell v. Carlson, 404 F.Supp. 1220 (D.Kan.1975)
Williams v. Daggett, 377 F.Supp. 1110 (D.Kan.1974)

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