CROWE&DUNLEVY
A PROFESSIONAL CORPORATION
Attorneys and Counselors at Law
Founded 1902

JEROME A. HOLMES
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May 8, 2006

The Honorable Arlen Specter
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Re: Nomination of Jerome A. Holmes
Tenth Circuit Court of Appeals

Dear Senator Specter:

On February 14, 2006, President George W. Bush nominated me for a judicial position on the U.S. District Court for the Northern District of Oklahoma. With that nomination in mind, I prepared and submitted to the U.S. Senate on or about March 6, 2006, my Senate Questionnaire. Subsequently, on May 4, 2006, President Bush withdrew the District Court nomination and nominated me to a judicial post on the U.S. Court of Appeals for the Tenth Circuit.

I have reviewed my March 6th Senate Questionnaire. I have attached a 3-page document, a Net Worth Statement, a Net Worth Schedule, and a Financial Disclosure Report. These materials update and supplement the information in the March 6th Questionnaire and also correct certain inadvertent errors.

To the best of my knowledge and belief, the information contained in these materials is accurate and correct. In submitting them, I deem myself to be fully bound by the oath that I took in connection with the March 6th Questionnaire. Thank you for your consideration of my nomination.

Sincerely,

JEROME A. HOLMES

Attachments

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May 8, 2006

The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Re: Nomination of Jerome A. Holmes
Tenth Circuit Court of Appeals

Dear Senator Leahy:

On February 14, 2006, President George W. Bush nominated me for a judicial position on the U.S. District Court for the Northern District of Oklahoma. With that nomination in mind, I prepared and submitted to the U.S. Senate on or about March 6, 2006, my Senate Questionnaire. Subsequently, on May 4, 2006, President Bush withdrew the District Court nomination and nominated me to a judicial post on the U.S. Court of Appeals for the Tenth Circuit.

I have reviewed my March 6th Senate Questionnaire. I have attached a 3-page document, a Net Worth Statement, a Net Worth Schedule, and a Financial Disclosure Report. These materials update and supplement the information in the March 6th Questionnaire and also correct certain inadvertent errors.

To the best of my knowledge and belief, the information contained in these materials is accurate and correct. In submitting them, I deem myself to be fully bound by the oath that I took in connection with the March 6th Questionnaire. Thank you for your consideration of my nomination.

Sincerely,

JEROME A. HOLMES

Attachments

SENATE QUESTIONNAIRE
Supplemental Information and Corrections
Jerome Alison Holmes

I. BIOGRAPHICAL INFORMATION

6. **Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.**

For my employment with the Honorable Wayne E. Alley, the correct period of service is 08/1988 to 08/1990 (not, as noted in the answer, 08/1988 to 09/1990).

10. **Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.**

I inadvertently omitted from the list of organizations the Tenth Judicial Circuit Historical Society.

12. **Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.**

Presentation to the Heartland Rotary Club of Oklahoma City
Date: May 4, 2006
Subject: Law Day Presentation Regarding the Law's Role as an Important Foundation for a Free and Economically Prosperous Society

17. Legal Career:

c. 1. **Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.**

Since I submitted my Senate Questionnaire on or about March 6, 2006, I have appeared on approximately two occasions in a trial court of the Oklahoma state courts.

2. **What percentage of these appearances was in:**

(a)	**federal courts:**	99%
(b)	**state courts of record:**	1%
(c)	**other courts.**	

II. FINANCIAL DATA AND CONFLICT OF INTEREST

2. **Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.**

I currently seek confirmation to the position of U.S. Circuit Judge, not District Judge; the latter is referenced in the answer to this question.

III. GENERAL

1. **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.**

There is an inadvertent typographical error in the third line of the answer to this question. The referenced pro bono landlord-tenant matter actually was litigated in approximately the 1993-1994 time frame, not the 2003-2004 period, which is noted in the answer.

3. **Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).**

In light of my recent nomination to a judicial position on the U.S. Court of Appeals for the Tenth Circuit, I restate and supplement my answer to this question as follows:

> I am not aware of the existence, or operation of, a selection commission with respect to the judicial post for which I have been nominated. I did not appear before such a commission. I submitted my resume to the two Oklahoma senators, along with a cover letter expressing my interest in being nominated

by President Bush for a judicial post. I met with Senator Tom Coburn on two occasions. I spoke on the telephone with Senator Inhofe approximately three times. Senator Inhofe had previously interviewed me personally in 2001, when I sought to be appointed U.S. Attorney for the Western or Northern District of Oklahoma. Subsequently, I was interviewed by representatives from the White House Counsel's Office and the Department of Justice. After undergoing a background investigation and completing nomination paperwork, the President forwarded my nomination for a judicial post on the U.S. District Court for the Northern District of Oklahoma to the Senate on February 14, 2006. In early March 2006, I communicated by telephone with the White House Counsel's Office concerning the open position on U.S. Court of Appeals for the Tenth Circuit. Shortly thereafter, I was interviewed by representatives from the White House Counsel's Office and the Department of Justice. At that time, I signed certain privacy waivers so that investigators could make any further inquiries that were deemed appropriate concerning my background. On May 4, 2006, President Bush sent my nomination for the Tenth Circuit judicial position to the U.S. Senate.

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		11	563	Notes payable to banks-secured			
U.S. Government securities-add schedule				Notes payable to banks-unsecured			
Listed securities-add schedule				Notes payable to relatives			
Unlisted securities--add schedule				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		23	627
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable-add schedule		148	089
Real estate owned-add schedule		171	273	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		41	000	Student Loans		20	434
Cash value-life insurance							
Other assets itemize:							
Federal Thrift Savings Plan		206	662				
				Total liabilities		192	150
				Net Worth		238	348
Total Assets		430	498	Total liabilities and net worth		430	498
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Real Estate Owned	
Personal residence	$ 171,273
Real Estate Mortgages Payable	
Personal residence	$ 148,089

AO-10
Rev. 1/2004

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

Report Required by the Ethics in Government Act of 1978 (5 U.S.C. app. §§ 101-111)

1. Person Reporting (Last name, First name, Middle initial)	2. Court or Organization	3. Date of Report
Holmes, Jerome A	10th Circuit	5/8/2006
4. Title (Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time)	**5. Report Type** (check appropriate type)	**6. Reporting Period**
U.S. Circuit Judge - Nominee	(•) Nomination, Date 5/4/2006 ( ) Initial ( ) Annual ( ) Final	1/1/2005 to 4/30/2006
7. Chambers or Office Address	**8.** On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
20 N. Broadway, #1600 Oklahoma City, Oklahoma 73102	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.

I. POSITIONS. (Reporting individual only; see pp. 9-13 of filing instructions)

☐ NONE - (No reportable positions.)

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Director (Chair of Board of Directors)	City Rescue Mission
2.	Director (Board of Directors)	Oklahoma Medical Research Foundation
3.	Director (Board of Directors)	Oklahoma Academy for State Goals
4.	Director (non-equity)	Crowe & Dunlevy, P.C.
5.	Trustee (Board of Trustees)	Oklahoma City National Memorial Foundation
6.	Vice President & Governor	Oklahoma Bar Association
7.	Director (Board of Directors)	Oklahoma County Bar Association
8.	Commissioner	American Bar Association, Commission on Homelessness & Poverty
9.	Personal Representative	Estate # 1
10.	Director (Former member of Board of Directors)	Prevent Blindness Oklahoma

I. AGREEMENTS. (Reporting individual only; see pp. 14-16 of filing instructions)

☑ NONE - (No reportable agreements.)

	DATE	PARTIES AND TERMS
1.		

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting	Date of Report
Holmes, Jerome A	5/8/2006

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of filing instructions)

A. Filer's Non-Investment Income

☐ NONE - (No reportable non-investment income.)

	DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
1.	2005	Crowe & Dunlevy, P.C., Salary	$62,758
2.	2006	Crowe & Dunlevy, P.C., Salary	$45,083
3.			

B. Spouse's Non-Investment Income - (If you were married during any portion of the reporting year, please complete this section. Dollar amount not required except for honoraria.)

☐ NONE - (No reportable non-investment income.)

	DATE	SOURCE AND TYPE
1.		

IV. REIMBURSEMENTS - transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children. See pp. 25-27 of instructions.)

☐ NONE - (No such reportable reimbursements.)

	SOURCE	DESCRIPTION
1.		Exempt

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Holmes, Jerome A	5/8/2006

V. GIFTS. (Includes those to spouse and dependent children. See pp. 28-31 of instructions.)

☐ NONE - (No such reportable gifts.)

	SOURCE	DESCRIPTION	VALUE
1.		Exempt	

VI. LIABILITIES. (Includes those of spouse and dependent children. See pp. 32-34 of instructions.)

☐ NONE - (No reportable liabilities.)

	CREDITOR	DESCRIPTION	VALUE CODE
1.	CitiBank	Promissory Note - Student Loan	J
2.	Sallie Mae	Promissory Note - Student Loan	J

FINANCIAL DISCLOSURE REPORT
Page 1 of 1

Name of Person Reporting	Date of Report
Holmes, Jerome A	5/8/2006

VII. INVESTMENTS and TRUSTS – income, value, transactions (includes those of the spouse and dependent children. See pp. 34-57 of filing instructions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A -H)	B. (2) Type (e.g. div. rent. or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	C. (2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g. buy, sell, merger, redemption)	D. If not exempt from disclosure (2) Date: Month - Day	D. (3) Value Code 2 (J-P)	D. (4) Gain Code 1 (A-H)	D. (5) Identity of buyer/seller (if private transaction)
☐ NONE (No reportable income, assets, or transactions)									
1. Bank of Oklahoma, Accounts	A	Interest	J	T	Exempt				
2. Estate # 1 (Sole Remaining Asset, Accounts)		None			Exempt				

Income/Gain Codes:	A = $1,000 or less	B = $1,001-$2,500	C = $2,501-$5,000	D = $5,001-$15,000	E = $15,001-$50,000				
(See Columns B1 and D4)	F = $50,001-$100,000	G = $100,001-$1,000,000	H1 = $1,000,001-$5,000,000	H2 = More than $5,000,000					
Value Codes:	J = $15,000 or less	K = $15,001-$50,000	L = $50,001-$100,000	M = $100,001-$250,000					
(See Columns C1 and D3)	N = $250,000-$500,000	O = $500,001-$1,000,000	P1 = $1,000,001-$5,000,000	P2 = $5,000,001-$25,000,000					
	P3 = $25,000,001-$50,000,000		P4 = More than $50,000,000						
Value Method Codes	Q = Appraisal	R = Cost (Real Estate Only)	S = Assessment	T = Cash/Market					
(See Column C2)	U = Book Value	V = Other	W = Estimated						

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Holmes, Jerome A	5/8/2006

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report.)

Part VII, line 2: The sole asset of Estate # 1, bank accounts, was distributed to the heirs before the end of the reporting period, in or about the summer of 2005. Accounts were closed around that same period in 2005.

Part IILA: Filer's non-investment income for 2004 and part of 2005 includes U.S. Government Salary.

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Holmes, Jerome A	5/8/2006

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature Jerome A. Holmes Date 05/08/2006

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. **Full name (include any former names used.)**

   Jerome Alison Holmes

2. **Address: List current place of residence and office address(es).**

   Residence: Nichols Hills, Oklahoma

   Office: 20 N. Broadway, Suite 1800
   Oklahoma City, OK 73102

3. **Date and place of birth.**

   November 18, 1961. Washington, D.C.

4. **Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

   Never married.

5. **Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.**

   Wake Forest University, 1979 - 1983, Bachelor of Arts, 1983.

   Georgetown University Law Center, 1985-1988, Juris Doctor, 1988.

   Harvard University, Kennedy School of Government,1999-2000, Master of Public Administration, 2000.

   Took courses at two colleges, without degree intentions: Howard University, May to July 1982, no degree; and University of the District of Columbia, January to May 1984, no degree.

6. **Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.**

   Crowe & Dunlevy - Director, 08/2005 to present.

U.S. Attorney's Office, Western District of Oklahoma, Assistant U.S. Attorney, 1994-05.

Steptoe & Johnson, Associate, 11/1991 to 04/1994.

Judge William J. Holloway, Jr., Judicial Law Clerk, 09/1990 to 09/1991.

Judge Wayne E. Alley, Law Clerk, 08/1988 to 09/1990.

National Association of Letter Carriers, Law Clerk, 06/1988 to 07/1988.

Steptoe & Johnson, Law Clerk, 02/1988 to 04/1988.

United States Postal Service, Office of Labor Law, Summer Intern, 06/1987 to 08/1987.

Prof. Steven Goldberg, Research Assistant, 05/1986 to 12/1986.

D.C. Department of Corrections, Social Services Assistant, 11/1984 to 08/1985.

D.C. Department of Public Works, Contact Representative, 11/1983 to 11/1984.

James E. House, Analyst, 09/1983 to 11/1983.

D.C. Councilman William R. Spaulding, Legislative Intern, 06/1983 to 09/1983.

Oklahoma Medical Research Foundation, Director, 2004 to present.

Oklahoma City National Memorial Foundation, Trustee, 2004 to present.

Oklahoma Academy for State Goals, Director, 2003 to present.

City Rescue Mission, Director & Chair, 2003 to present.

Oklahoma Bar Association, Vice President & Governor, 2003 to present.

Oklahoma County Bar Association, Director, 2003 to 2005.

Prevent Blindness Oklahoma, Director, 2002 to 2004.

Oklahoma County Bar Association - Young Lawyers Division, Director, 1996 to 1997.

7. **Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.**

No.

8. **Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.**

FBI Commendation, for Outstanding Prosecutive Skills (2004)

Director's Award from the Executive Office of U.S. Attorneys, for Superior Performance as an Assistant U.S. Attorney (2001)

John Marshall Award from the U.S. Attorney General, for Outstanding Legal Achievement (1998)

FBI Commendation, for Exceptional Service in the Public Interest (1998)

U.S. Attorney's OKBOMB Prosecution Award (1996)

U.S. Attorney's Extra Mile Award (1995)

U.S. Attorney's Special Appreciation Award (1994)

John B. Pickett Fellowship, Criminal Justice Policy and Management (Harvard University, 1999)

John McTigue Essay Award (Georgetown University Law Center, 1988)

Am Jur Award in Consumer Protection (Georgetown University Law Center, 1988)

Phi Alpha Theta, History Honor Society (Wake Forest University, President, 1983)

9. **Bar Associations: List all bar associations, legal or judicial-related committees 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.**

Oklahoma Bar Association (OBA) -
Governor, OBA Board of Governors, 01/2003 to 12/2005
OBA Vice President, 01/2006 to present

Oklahoma County Bar Association (OCBA)
Director, OCBA Board of Directors 01/2003 to 12/2005
Director, Young Lawyers Division Board of Directors, 1996-1997

American Bar Association (ABA)
1989 to present
Commissioner, ABA Commission on Homelessness & Poverty - 08/2005 to present

Prettyman-Leventhal American Inn of court

William J. Holloway, Jr., American Inn of Court

Oklahoma City Association of Black Lawyers

National Black Prosecutors' Association

Cleveland County Bar Association

Federal Bar Association

Oklahoma Criminal Defense Lawyers

10. **Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.**

The Oklahoma Bar Association engages in lobbying activities before the Oklahoma legislature in support of legislation designed to improve the administration of justice and advance the legal profession. It is my understanding that the American Bar Association engages in lobbying for similar purposes on the federal level. The Oklahoma Medical Research Foundation, on whose Board of Directors I serve, engages in federal and state lobbying activities. I have no personal knowledge of lobbying activities by other organizations to which I belong. Other organizations to which I belong, not previously listed in this questionnaire, are the following:

Rotary Club of Oklahoma City (Club 29)

All Souls' Episcopal Church

Leadership Oklahoma City

Leadership Oklahoma

Harvard Club of Oklahoma City

Oklahoma Council on Public Affairs

Oklahoma Heritage Association

Oklahoma City Museum of Art

YMCA of Greater Oklahoma City

11. **Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.**

Oklahoma, 1997

District of Columbia, 1991

Pennsylvania, 1988

Supreme Court of the United States, 1998

United States Court of Appeals for the Tenth Circuit, 1990

U.S. Court of Appeals for the D.C. Circuit, 1994

U.S. District Court for the District of Columbia, 1993

U.S. District Court for the District of Maryland, 1993-2002

U.S. District Court for the Western District of Oklahoma, 1999

U.S. District Court for the Northern District of Oklahoma, 2005

U.S. District Court for the Eastern District of Oklahoma, 2005

In or about 2002, members of the Bar of the U.S. District Court for Maryland were asked to affirmatively express their intention to renew their memberships. In September 2002, through written correspondence, I declined to renew my membership because I had decided to make Oklahoma my home and did not anticipate in the near future practicing law in the federal courts in Maryland.

12. **Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.**

African American Lawyers in Oklahoma, 75 Oklahoma Bar Journal 62 (Sept. 2004) (co-authored with Bruce Fisher)

Legal Comment, Standard of Proof for Antidiscrimination Cases Under the INA: League of United Latin American Citizens v. Pasadena Independent School District, 2 Geo. Immigr. Law Journal 427 (1987)

Legal Comment, Burden of Proof in Labor Certification Proceedings: Imperial Textiles, Inc. v. Secretary of Labor, 2 Geo. Immigr. Law Journal 197 (1987)

Legal Comment, Back Pay for Undocumented Aliens: Local 512 Warehouse & Office Workers' v. NLRB, 1 Geo. Immigr. Law Journal 667 (1986)

Book Review, 11 National Bar Association Magazine 33 (1997) (reviewing, Linn Washington, Black Judges on Justice: Perspectives from the Bench (1994))

Book Review, 39 Federal Bar & News Journal 540 (1992) (reviewing, John L. Jackley, Hill Rat: Blowing the Lid Off Congress (1992))

Opinion Piece *published in* Oklahoma Council on Public Affairs, Why Oklahomans from A to Z Should Embrace School Choice at 15 (2003)

"Ethics in Boardroom A Must." The Daily Oklahoman 12 September 2005

"A Step Closer to King's Dream." The Daily Oklahoman 19 Jan. 2004

"The Court Misses An Opportunity." The Daily Oklahoman 2 July 2003

"Race-based Policies Are Divisive." The Daily Oklahoman 8 December 2002

"Vouchers Promise Better Schools." The Daily Oklahoman 13 July 2002

"Racial Bias Claims Harm System." The Daily Oklahoman 28 April 2002

"Victimization Message Misguided." The Daily Oklahoman 27 January 2002

"Diallo Jurors Responsible for Answering Just One Question." Citizen (Student Publication of Harvard's Kennedy School of Government), March 2000 (www.ksg.harvard.edu/citizen/holm0306.html).

"African American Victims." The Economist 8 Sept. 2001

Correspondence, Reconstruction, 2.3 at 175 (1994)

Letter, Wall St. Journal, 4 Sept. 1992.

I also recall writing a letter to the editor of the student newspaper at Wake Forest University, Old Gold & Black, in approximately 1981 or 1982 concerning some aspect of the affirmative action debate. I do not have a citation for this piece.

Over the course of my career as a federal prosecutor, I made a number of educational presentations as a guest lecturer about subjects such as white collar crime, prosecutorial ethics, and the role of the U.S. Attorney's Office in the criminal justice system. I also have spoken on occasion to small groups, including a breakfast group of my Rotary Club, about my job and personal history. And, in one instance, I was asked to speak in my personal capacity to a college class about my views concerning affirmative action and race in America. In addition, since leaving the U.S. Attorney's Office, I have spoken to a group concerning the work of the Oklahoma Academy for State Goals (with which I am affiliated as a Director) and the Academy's most recent public policy proposals relating to drug courts and legal sanctions for the sale of alcohol to minors. I have not considered these presentations to be formal speeches but, instead, informal talks or teaching opportunities. Perhaps worthy of specific mention as possibly falling into the category of speeches, however, are the following:

Presentation at Summit of Oklahoma Academy for State Goals
Date: January 10, 2006
Subject: The Oklahoma Academy's Town Hall Process & Policy Proposals from Its 2006 Town Hall Concerning Drug Courts and Legal Sanctions for Sale of Alcohol to Minors

Presentation to Kiwanis Club of Oklahoma City
Date: May 24, 2004
Subject: Patriot Act and Role of Anti-Terrorism Coordinator in U.S. Attorney's Office

Presentation to Leadership Oklahoma Class XVIII
Date: November 5, 2004
Subject: Participant in Two-Person Debate About the Death Penalty with Prominent Criminal Defense Attorney

13. Health: What is the present state of your health? List the date of your last physical examination.

I am in excellent physical health. My last physical was on December 14, 2005.

14. **Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.**

I have never held a judicial office.

15. **Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.**

I have never been a judge.

16. **Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.**

1994 - 2005, Assistant United States Attorney, appointed.

I have never been a candidate for elective public office.

17. **Legal Career:**

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

1. **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;**

1988-1990
The Honorable Wayne E. Alley
United States District Court for the Western District of Oklahoma

1990-1991
The Honorable William J. Holloway, Jr.
United States Court of Appeals for the Tenth Circuit

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

I never practiced law alone.

3. **the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;**

Steptoe & Johnson - 1330 Connecticut Avenue, Washington, D.C. 20036 - Associate, 11/1991 to 04/1994.

U.S. Attorney's Office - 210 W. Park Avenue, #400, Oklahoma City, Oklahoma 73102 - Assistant U.S. Attorney, 05/1994 to 08/2005. During this period, I occupied roles as Deputy Chief of the Criminal Division (1996 to 2004), Anti-Terrorism Coordinator (2003 to 2005); Team Leader of the General Crimes Team (2005), and Professional Responsibility Officer for the Criminal Division (1994 to 2005).

Crowe & Dunlevy - 20 N. Broadway, # 1800, Oklahoma City, Oklahoma 73102 - Director, 08/2005 to present.

b. 1. **What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?**

Following the period of my federal clerkships, during which I assisted the Judges on both civil and criminal matters, I was in private practice from November 1991 to April 1994. I worked as a Litigation Associate at a full-service law firm of approximately 200 attorneys. I worked exclusively on civil matters, primarily involving employment, transportation, insurance, and (to a lesser extent) immigration laws.

From May 1994 to August 2005, I was a federal prosecutor at the U.S. Attorney's Office for the Western District of Oklahoma, handling exclusively criminal matters. My practice was primarily focused on white collar and public corruption offenses. I also prosecuted violent crime offenses, taking to trial cases involving domestic terrorism, murder-for-hire, and bank robbery crimes. In addition, I worked from April 1995 to February 1996, on the Oklahoma City Bombing Prosecution Team.

Since leaving the U.S. Attorney's Office in August 2005, I have worked as a litigator at one of the largest law firms in Oklahoma, Crowe & Dunlevy. It is a firm of approximately 111 attorneys. My practice is focused on white collar

criminal defense, corporate counseling concerning criminal and civil enforcement issues, and complex civil litigation.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

During my first years in private practice (1991 to 1994), I represented large corporations involved in commercial disputes with other corporations or engaged in defending against employment suits brought by individuals. My practice was litigation-based and involved civil matters; otherwise, it was not specialized.

For over 11 years (1994 to 2005), I worked as a federal prosecutor. My only client was the United States. I worked only on criminal matters, primarily those involving white collar and public corruption crimes.

Since leaving government service in August 2005, my clients have been primarily large corporations. I currently am counseling a major corporate client with respect to civil and criminal enforcement issues and I am representing other corporate clients in civil litigation.

c. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

During my first years in private practice (1991-1994), my courtroom appearances were very limited. While at the U.S. Attorney's Office (1994-2005), I appeared frequently in court, in connection with trials, hearings, and other proceedings. Since entering private practice in August 2005, I have not appeared in court; however, my practice is litigation-based and I anticipate that I will be doing so.

2. What percentage of these appearances was in:

(a) federal courts: 100%
(b) state courts of record:
(c) other courts.

3. What percentage of your litigation was:

(a) civil: 15%;
(b) criminal: 85%

4. **State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.**

I have tried 7 cases to verdict. I tried one alone and shared the trial responsibilities equally on the other 6 cases.

5. **What percentage of these trials was:**
(a) jury: 100%
(b) non-jury.

18. **Litigation: Describe the ten most significant litigated matters which you personally handled. 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. United States v. Brent VanMeter and James Smart, CR–00-067-T (District Court); United States v. VanMeter, 278 F.3d 1156 (10th Cir. 2002); United States v. Smart, 278 F.3d 1168 (10th Cir. 2002).

This was a widely-publicized public corruption prosecution. It stemmed from a broader investigation begun in 1996 by the Federal Bureau of Investigation (FBI) that centered around allegations that Oklahoma State Department of Health (OSDH) employees were extorting or soliciting bribes from nursing home operators in exchange for official acts. The principal figure in that investigation was Brent VanMeter, the Deputy Commissioner for Special Health Services (SHS). SHS was responsible for every facet of the regulation of long term care facilities (i.e., nursing homes). During the course of the investigation, the FBI sought to acquire evidence through a variety of means, including court-approved wire taps. On April 17, 2000, the FBI intercepted a telephone conversation between VanMeter and a nursing home operator named James Smart. In that conversation, VanMeter solicited and Smart agreed to provide a bribe in exchange for VanMeter altering the OSDH's paperwork to permit Smart's nursing homes to recover more federal health care monies than they were entitled to as reimbursement for a medical procedure. VanMeter and Smart were indicted on May 17, 2000, for violations of the federal bribery statute, 18 U.S.C. § 666. I entered an appearance in the matter on July 10, 2000.

The defendants went to trial on October 11, 2000. Following five days of evidence and arguments, the jury returned guilty verdicts as to both defendants on October 18, 2000. The defendants were sentenced one month later, on December 18, 2000. The sentencing proceeding raised a number of issues under the Sentencing Guidelines. The parties vigorously litigated them. Each defendant was sentenced to a term of imprisonment of 36 months and fined $50,000. The defendants appealed and the convictions were affirmed by the Tenth Circuit Court of Appeals in March 2002. I tried this matter with one other attorney. We equally shared the trial responsibilities. I took the lead in drafting a sentencing memorandum to support the government's position in the December sentencing and argued for the government in that proceeding. I was the principal drafter of the appellate briefs for the government in the appeals of VanMeter and Smart. For my work on this matter, I received an award from the Director of the Executive Office of U.S. Attorneys, for Superior Performance as an Assistant U.S. Attorney, and from FBI Director Robert S. Mueller, III.

Court:	U.S. District Court for the Western District of Oklahoma
Judge:	The Honorable Ralph G. Thompson
Co-Counsel:	The Honorable Arlene Johnson 230 State Capitol Building Oklahoma City, Oklahoma 73105 (405) 521-2157
Defense Counsel:	Mack K. Martin, Esq. Martin Law Office 119 N. Robinson Ave., Suite 360 Oklahoma City, OK 73102 (405) 236-8888 Lead Counsel for VanMeter
	J. David Ogle Ogle & Welch 117 Park Avenue Oklahoma City, OK 73102 (405) 232-9800 Counsel for VanMeter
	Burck Bailey Warren F. Bickford, IV Fellers, Snider Blankenship Bailey 1000 N. Broadway Avenue, Suite 1700 Oklahoma City, Oklahoma 73102 (405) 232-0621 Counsel for Smart

2. United States v. Sean Gillespie, CR-04-94-C

This was a widely-publicized domestic terrorism/hate crimes case arising from the fire bombing of a Jewish synagogue by an avowed white supremacist, Sean Gillespie. Gillespie fire bombed a Jewish synagogue in Oklahoma City with a Molotov cocktail around April 1, 2004. As the evidence later revealed, Gillespie video taped himself doing the crime. Following a vigorous investigation by the FBI, Gillespie was located in Arkansas. The government filed a complaint and secured a warrant for his arrest on April 16, 2004.

Gillespie was arrested and subsequently indicted on May 19, 2004, for several firearms crimes, including an offense under 18 U.S.C. § 924(c)(1)(A) that carried a mandatory minimum penalty of 30 years. Gillespie went to trial on April 25, 2005. Gillespie strongly opposed the government's plan to admit evidence at trial of his other bad acts. Before trial, the parties briefed the legal issues concerning the admissibility of this evidence and presented oral arguments to the Court. The Court ruled in favor of the government. The case was tried to a jury for 1 ½ days. The jury returned a verdict of guilty on April 26, 2005, on all counts. Gillespie filed a motion for judgment of acquittal the same day. The government filed a written response and the Court denied Gillespie's motion. Gillespie was sentenced to a prison term of 468 months. The matter is currently on appeal to the Tenth Circuit Court of Appeals.

I took the lead in drafting the complaint paperwork, including assisting the FBI agents in the preparation of the underlying affidavit. I tried the case with one other attorney. We equally shared the trial responsibilities. I took the lead in drafting the winning brief regarding the admissibility of the other bad acts and drafted the government's successful response to Gillespie's motion for judgment of acquittal. Gillespie was sentenced after I left the U.S. Attorney's Office.

Court:	U.S. District Court for the Western District of Oklahoma
Judge:	The Honorable Robin J. Cauthron
Co-Counsel:	Scott L. Palk, Esq. U.S. Attorney's Office 210 W. Park Avenue, Suite 400 Oklahoma City, OK 73102 (405) 553-8700
Defense Counsel:	Susan M. Otto, Esq. Paul A. Lacy, Esq. (Lead) Office of the Federal Public Defender 215 Dean A. McGee Avenue, Suite 109 Oklahoma City, Oklahoma 73102 (405) 609-5930

3. United States v. William Eaton, CR-98-184-R (District Court); 208 F.3d 227, 2000 WL 293789 (10th Cir. March 21, 2000) (unpublished disposition).

This was a bank robbery and obstruction of justice prosecution, which implicated the federal three strikes statute, 18 U.S.C. § 3559(c). A career criminal, William Eaton, was convicted in this case following a jury trial and sentenced to life imprisonment. The prosecution commenced with Eaton's arrest on September 11, 1998. He was charged by indictment on October 21, 1998. That indictment was superseded on November 18, 1998. I formally entered my appearance the day before the superseding indictment was returned, November 17, 1998, and assisted in the grand jury process.

Eaton was charged with two counts of bank robbery, two fire arms crimes, a count of obstruction of justice, and two counts of witness tampering. The evidence established that Eaton robbed two banks in the Oklahoma City area and attempted to elicit help in fabricating an alibi. The matter was set for trial on December 14, 1998. Eaton filed a flurry of motions, among other things seeking to suppress incriminatory correspondence he had written and to dismiss the indictment on multiplicity grounds. The government filed written responses to Eaton's motions. Further, the government filed motions of its own. Specifically, it sought to compel the testimony of two witnesses. The court granted the government's motions and immunized the witnesses. It also ruled on Eaton's motions, denying him relief. The case proceeded to trial and the jury returned a verdict of guilty on all counts on December 18, 1998. The Court sentenced Eaton under the three strikes statute to a prison term of life. Eaton appealed and the sentence was affirmed by the Tenth Circuit in March 2000. I worked on this case with one other attorney. I equally shared the responsibility of responding to Eaton's pre-trial motions. I also equally shared with my co-counsel the responsibilities of putting on evidence at trial. I further assisted in presenting the government's position at the sentencing proceeding.

Court: U.S. District Court for the Western District of Oklahoma

Judge: The Honorable David L. Russell

Co-Counsel: Daniel G. Webber Jr., Esq.
Ryan Whaley Coldiron
119 N. Robinson Street, Suite 900
Oklahoma City, OK 73102
(405) 239-6040

Defense Counsel: J. David Ogle
Ogle & Welch
117 Park Avenue
Oklahoma City, OK 73102
(405) 232-9800
Lead Counsel for Eaton

Mack K. Martin, Esq.
Martin Law Office
119 N. Robinson Ave., Suite 360
Oklahoma City, OK 73102
(405) 236-8888
Counsel for Eaton

4. United States v. Sharon Canby, CR-94-139-A

This was a murder-for-hire prosecution. It commenced with the arrest of defendant Sharon Canby on June 24, 1994. She was indicted on September 7, 2004 and charged under the federal murder-for-hire statute, 18 U.S.C. § 1958. I formally entered an appearance in the case on September 28, 1994. The trial was scheduled to begin on October 12, 1994. The charge was based upon Canby's use of a telephone to recruit someone to kill her husband. In attempting to consummate her plan, Canby ended up negotiating with an undercover FBI agent, assuming the hired-killer role.

With some factual foundation, Canby claimed to have been physically abused by her husband. The government anticipated that Canby would seek to introduce evidence during the trial of that abuse. Accordingly, the government took the somewhat unusual step of moving the Court to conduct individual *in camera* voir dire - specifically, to question the jurors individually in chambers on the sensitive issue of whether they or anyone close to them had suffered some form of domestic abuse. The procedure seemed to work well in ferreting out jurors who might have difficulty being fair in a trial with overtones of domestic abuse.

The parties presented evidence to the jury for four days. On October 18, 1994, the jury returned a verdict of guilty. Prior to sentencing, Canby filed a motion for departure downward from the otherwise-applicable imprisonment range under the U.S. Sentencing Guidelines, claiming she suffered from diminished capacity due to the abuse she suffered at her husband's hands. The government took the unusual step of not opposing the downward departure; it simply filed a written brief offering an analysis regarding the appropriate extent of any departure. At the sentencing, on December 12, 1994, the Court granted the downward departure motion and sentenced Canby to a prison term of 63 months. She did not appeal.

I tried the case with one other attorney. We equally shared the trial responsibilities. I took the lead in seeking individual voir dire and in presenting the government's position - in writing and orally - regarding the requested downward departure.

Court: U.S. District Court for the Western District of Oklahoma

Judge: The Honorable Wayne E. Alley

Co-Counsel: The Honorable Arlene Johnson
230 State Capitol Building
Oklahoma City, Oklahoma 73105
(405) 521-2157

Defense Counsel: Teresa K. Brown, Esq.
Office of the Federal Public Defender
215 Dean A. McGee Avenue, Suite 109
Oklahoma City, Oklahoma 73102
(405) 609-5930
Counsel for Canby

5. United States v. Robert Cochran, CR-95-128-T (District Court). 109 F.3d 660 (10th Cir. 1997).

This was a complex white collar prosecution involving a bond broker's alleged unlawful receipt of undisclosed payments from participants in bond deals he negotiated. Robert Cochran was the bond broker. He was indicted on September 20, 1995, charged with wire fraud and money laundering offenses. Also charged in the matter was Michael B. Garrett, who was ultimately acquitted.

I formally entered an appearance in the case on March 21, 1996. My role in this matter related solely to a three-day evidentiary hearing that took place in April 1996. Defendants alleged that the government improperly obtained privileged communications from Cochran's unindicted corporate employer, Stifel Nicolaus & Co., and had used these communications to support the charges of the indictment. The parties extensively briefed the privilege issues, put on evidence, and presented legal arguments to the Court. The Court ruled in the government's favor and rejected defendant's allegations. I received a letter of commendation from U.S. Attorney General Janet Reno for my work on this matter.

Cochran and Garrett were tried before a jury by other prosecutors in the latter part of April and early May in 1996. Cochran was convicted, but his conviction was ultimately overturned on appeal by the Tenth Circuit Court of Appeals. That Court rejected the government's wire fraud theory. As noted, Garrett was acquitted.

I participated in the 3-day hearing with co-counsel. We equally shared the responsibilities of putting on evidence and making arguments. I took the lead in drafting pleadings related to the hearing.

Court: U.S. District Court for the Western District of Oklahoma

Judge: The Honorable Ralph G. Thompson

Co-counsel: The Honorable Arlene Johnson
230 State Capitol Building
Oklahoma City, Oklahoma 73105
(405) 521-2157

Henry Hockeimer Jr. Esq.
Ballard, Spahr, Andrews & Ingersoll, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 864-8204

Defense Counsel: Drew Neville Jr., Esq. (Lead)
Bernard Rothbaum Jr., Esq.
Russell A. Cook, Esq.
Hartzog, Conger et al.
201 Robert S. Kerr Avenue, Suite 1600
Oklahoma City, OK 73102
(405) 235-7000
Counsel for Cochran

Mack K. Martin, Esq.
Martin Law Office
119 N. Robinson Ave., Suite 360
Oklahoma City, OK 73102
(405) 236-8888
Counsel for Garrett

6. United States v. Paul Graham, CR-96-17-R

This was a tax prosecution. A tax protestor, Paul Graham, was indicted for failure to file returns and income tax evasion on January 17, 1996. I formally entered an appearance in the matter on February 20, 1996. Prior to trial, the government prepared legal memoranda on some complex tax law issues, including a memorandum concerning the separate-offense nature under the Double Jeopardy Clause of, respectively, the crimes of tax evasion and failure to file taxes, and a trial brief addressing among other things the effect of a defendant's misguided understanding of the tax laws on his possession of the requisite criminal intent. The case proceeded to jury trail on March 11, 1996. After two full days of putting on evidence, the parties rested. At that point, before closing arguments, Graham decided to plead guilty. He pled guilty to one count of tax evasion and was sentenced to a prison term of five months. He did not appeal. I tried the case with one other lawyer. We equally shared the trial responsibilities. I took the lead in drafting the double jeopardy motion and portions of the trial brief.

Court: U.S. District Court for the Western District of Oklahoma

Judge: The Honorable David L. Russell

Co-Counsel: Henry Hockeimer Jr. Esq.
Ballard, Spahr, Andrews & Ingersoll, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 864-8204

Defense Counsel: Paul A. Lacy, Esq.
Office of the Federal Public Defender
215 Dean A. McGee Avenue, Suite 109
Oklahoma City, Oklahoma 73102
(405) 609-5930
Counsel for Graham

7. United States v. Virgil Copus, CR-94-73-T (District Court). 110 F.3d 1529 (10th Cir. 1997).

This was a bank fraud prosecution involving false statements to a federally-insured bank. Defendant Virgil Copus was indicted on May 17, 1994, for violations of 18 U.S.C. § 1014. My co-counsel, Arlene Johnson (then Arlene Joplin), and I entered the case to do the trial sometime in early July 1994. We found the indictment created some confusion regarding Copus's conduct. Accordingly, we researched the law and took the somewhat novel step of moving the Court to strike language from the indictment. We argued that such an action would not amount to an unconstitutional amendment of the indictment. The Court granted our motion. The case proceeded to trial on July 18, 1994. The jury heard evidence and arguments for five days and returned a verdict of guilty as to one count of the two-count indictment, acquitting him on the other charge.

At issue in the sentencing proceeding were complex issues regarding the computation of actual and intended loss under the U.S. Sentencing Guidelines. The government presented a sentencing memoranda on these issues. The Court sentenced defendant to a 24-month prison term and ordered him to pay approximately $183,146.00 in restitution.

Copus appealed. The Tenth Circuit upheld the conviction but remanded the case to the Court to clarify its ruling concerning loss amounts and its finding of obstruction of justice. The parties reached a stipulation regarding the amounts of loss before the re-sentencing, and the government submitted a brief on the obstruction of justice issue. At the re-sentencing, the Court found that Copus had in fact obstructed justice by committing perjury at trial and adjusted his sentence upward based on this misconduct. Ultimately, Copus was sentenced to a 16-month prison term.

I took the case to trial with co-counsel, Arlene Johnson. We shared equally the responsibilities of presenting evidence at trial. I thought of the idea of striking language from the indictment and took the lead in preparing the motion seeking this relief. I also was primarily responsible for the preparation of the sentencing memoranda for the initial sentencing and the re-sentencing. I was solely responsible for the litigation at the re-sentencing.

Court: U.S. District Court for the Western District of Oklahoma

Judge: The Honorable Ralph G. Thompson

Co-counsel: The Honorable Arlene Johnson
230 State Capitol Building
Oklahoma City, Oklahoma 73105
(405) 521-2157

Defense Counsel: Jeff Payton
Lloyd Payton
P.O. Box 1326
Muskogee, OK 74402
(918) 683-3219
Counsel for Copus

Joseph W. Strealy
U.S. Department of Human Services
Office of the General Counsel
P.O. Box 53025
Oklahoma City, OK 73152-3025
(405) 521-6816
Counsel for Copus

8. United States v. Cynthia Stoner, CR-94-44-W (District Court). 98 F.3d 527 (10th Cir. 1996), adhered to in part on rehearing en banc, 139 F.3d 1343 (10th 1998) (per curiam).

This was a public corruption case involving the embezzlement of Native American tribal funds by a tribal leader and a conspiracy to accomplish that crime. Cynthia Stoner, an official of the Ponca Tribe, was indicted on March 16, 2004. I joined the prosecution team for the trial at the end of May or the beginning of June 1994. The case went to trial on June 16, 1994. On the first day of trial, Stoner filed a motion raising an issue of first impression in the Tenth Circuit concerning the government's pleading and proof obligations regarding the statute of limitations in the context of conspiracy prosecutions. Stoner sought dismissal of the government's conspiracy charge on the grounds that it did not expressly list an overt act within the statute of

limitations period. The government filed a brief in opposition to Stoner's motion. The Court took the matter under advisement and the trial commenced.

The jury heard evidence for three days. After the parties rested, the Court denied Stoner's motion challenging the conspiracy count. The jury then heard arguments and returned a verdict of guilty against Stoner on the conspiracy count. It acquitted her of the substantive counts of the indictment. Stoner filed motions for judgment of acquittal and for a new trial. The government responded to those motions. The Court denied Stoner's motions and sentenced her to a 12-month prison term. Stoner appealed. A three-judge panel of the Tenth Circuit Court of Appeals affirmed the conviction, specifically holding in favor of the government on the statute of limitations issue. Upon rehearing en banc, however, the Tenth Circuit was evenly split on the statute of limitations issue, so it affirmed the judgment of the district court and stripped the panel's decision of precedential value.

I tried this case with another attorney. This was my first trial and my co-counsel handled some of the more challenging witnesses. Nonetheless, I played a significant role in the litigation of the matter, putting on a few witnesses, and making a portion of the closing argument. I took the lead in formulating the government's response to the issue of first impression concerning the statute of limitations and drafting the winning response brief. I also was principally responsible for preparing the government's responses to the motions for new trial and judgment of acquittal.

Court:	U.S. District Court for the Western District of Oklahoma
Judge:	The Honorable Lee West
Co-counsel:	Ross N. Lillard III, Esq. U.S. Attorney's Office 210 W. Park Avenue, Suite 400 Oklahoma City, OK 73102 (405) 553-8700
Defense Counsel:	Wesley C. Fredenburg, Esq. Velocity Express Corporation 7803 Glenroy Road, Suite 200 Minneapolis, MN 55439 (612) 492-2400 Lead Counsel for Stoner
	Rustin J. Strubhar Crowe & Dunlevy 20 N. Broadway, Suite 1800 Oklahoma City, OK 73102 (405) 235-7700 Counsel for Stoner

9. United States v. Joshua Cabaniss, CR-98-40-M

This was the first prosecution in the Western District of Oklahoma, and by all accounts in any federal court in Oklahoma, under the Freedom of Access to Clinic Entrances Act - the FACE Act. Joshua Cabaniss, the defendant, physically assaulted and battered a physician who provided abortion services while the physician was working at his clinic. Following my discussions and negotiations with his attorney, on April 1, 1998, Cabaniss pled guilty to a FACE charge. Cabaniss objected to certain matters related to his sentencing, however, including an upward adjustment to his sentencing range under the U.S. Sentencing Guidelines, which the U.S. Probation Office proposed because of Cabaniss's assault on his estranged girlfriend while under court-supervised release. The government and Cabaniss filed legal briefs in support of their respective sentencing positions. The Court heard oral arguments on the issues at the sentencing proceeding on June 12, 1998, and ruled in favor of the government. Cabaniss was sentenced to a prison term of 3 months and ordered to pay $700 in restitution. I handled this matter alone: drafting the charging document (an information), with only a few legal reference points because the statute was still relatively new and infrequently used; negotiating with Cabaniss's counsel concerning a plea; and litigating the sentencing issues.

Court: U.S. District Court for the Western District of Oklahoma

Judge: The Honorable Vicki Miles-LaGrange

Co-counsel: None

Defense counsel: Terry W. Tippens, Esq.
Fellers, Snider Blankenship Bailey
1000 N. Broadway Avenue, Suite 1700
Oklahoma City, Oklahoma 73102
(405) 232-0621
Counsel for Cabaniss

10. United States v. Phillip Bread, CR-02-131-A

This was a noteworthy public corruption prosecution, involving a nationally-known figure in the Native American community, Phillip Bread. Bread was indicted on August 6, 2002, for several public corruption crimes, including bribery under 18 U.S.C. § 666 and deprivation-of-honest-services mail and wire fraud , pursuant to 18 U.S.C. §§ 1341, 1343, 1346. Bread was a salaried employee of the Oklahoma State Department of Commerce, whose job primarily involved helping non-Indian businesses to build commercial relationships with Oklahoma Indian tribes, to further the economic development of the tribes. The indictment centered on the allegation that Bread solicited and accepted from non-Indian businesses money in exchange for

performing the same tasks for which he was paid a salary by the State of Oklahoma. Following my discussions and negotiations with Bread's defense counsel, Bread entered a plea of guilty. He did file a motion for departure downward from the otherwise-applicable imprisonment range under the U.S. Sentencing Guidelines, alleging that his Guidelines criminal history category overstated the seriousness of his past criminal conduct. The government filed a sentencing brief in opposition. The Court heard argument on the motion at the sentencing proceeding. It denied Bread's motion and sentenced him to a prison term of 12 months and one day. Bread did not appeal. I handled this matter alone: drafting the indictment, which involved the complex deprivation-of-honest-services theory; sheparding the indictment through the grand jury; negotiating with Bread's counsel concerning a plea; and litigating the downward-departure issue at sentencing.

Court:	U.S. District Court for the Western District of Oklahoma
Judge:	The Honorable Wayne E. Alley
Co-counsel:	None
Defense Counsel:	Frank R. Courbois Courbois, Cox & Staggs 120 N. Robinson Avenue, Suite 2900 Oklahoma City, Oklahoma 73102 (405) 524-7507 Counsel for Bread

19. <u>Legal Activities</u>: 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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

I served in a number of capacities in the U.S. Attorney's Office from which I gained invaluable managerial and administrative experience and substantive legal knowledge. For over eight years, I served as the Deputy Chief of the Criminal Division. In that position, I was responsible for assisting the Criminal Division's Chief in the management functions relating to approximately 26 Assistant U.S. Attorneys and 19 support staff. My responsibilities included helping in the formulation and implementation of prosecution guidelines concerning the kinds of cases that would be prosecuted, and assisting in the drafting and revising of important office documents, such as the office's standard plea agreement.

After the 9/11 tragedy, I served for over 2 ½ years as the office's Anti-Terrorism Coordinator. In this position, I coordinated the office's prosecutorial initiatives in the highly

sensitive areas of domestic and international terrorism. From April 1995 to February 1996, I had the honor of working on the prosecution team for the Oklahoma City bombing. I worked closely with investigators and other prosecutors in formulating investigative strategy, with an eye toward the ultimate prosecution of the two offenders, Timothy McVeigh and Terry Nichols.

In addition, I have been a very active member of the Oklahoma Bar Association (OBA), holding important leadership positions. Currently, I am an officer on the OBA's governing body, the Board of Governors. Specifically, I am the OBA's Vice President, taking office in January 2006. I am the first African-American in the history of the OBA to hold an officer's position on the Board of Governors. I previously served for three years as a Governor on the Board of Governors. In my OBA leadership roles, I have had an opportunity to work with and encourage the professional development of less experienced members of the legal profession. In recognition of my support for this group of lawyers, the OBA's Young Lawyers Division (YLD) elected me in 2005 a YLD Fellow.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. **List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

   I participated in the Federal Employee Retirement System and contributed to the Thrift Savings Plan (TSP). When I left government service in August 2005, I left my contributed funds in the TSP. I will receive future benefits, according to the provisions of the TSP.

2. **Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.**

   During my initial service in the position to which I have been nominated, I will be particularly sensitive to cases involving my former firm or clients. Should I be confirmed as a District Judge, in any circumstance of potential, actual or perceived conflict of interest, I will adhere to the Code of Conduct for United States Judges and all laws and ethical standards.

3. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.**

   I have no plans to engage in outside employment. It has been my intention, however, to continue my unpaid service on one or more of the non-profit Boards with which I am currently affiliated, to the extent that such service is consonant with the Code of Conduct for United States Judges (e.g., Canon 5(B)) and all other ethical standards and laws.

4. **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, patents, 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

5. **Please complete the attached financial net worth statement in detail (Add schedules as called for).**

   See attached Net Worth Statement

6. **Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.**

   No.

AO-10
Rev. 1/2004

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

Report Required by the Ethics in Government Act of 1978 (5 U.S.C. app. §§ 101-111)

1. Person Reporting (Last name, First name, Middle initial)	2. Court or Organization	3. Date of Report
Holmes, Jerome A	District Court, N.D. Oklahoma	2/17/2006
4. Title (Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time)	**5. ReportType (check appropriate type)**	**6. Reporting Period**
U.S. District Judge - Nominee	(•) Nomination, Date 2/14/2006 ( ) Initial ( ) Annual ( ) Final	1/1/2005 to 2/3/2006
7. Chambers or Office Address	**8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.**	
20 N. Broadway, #1800 Oklahoma City, Oklahoma 73102	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.

I. POSITIONS. (Reporting individual only; see pp. 9-13 of filing instructions)

☐ NONE - (No reportable positions.)

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Director (Chair of Board of Directors)	City Rescue Mission
2.	Director (Board of Directors)	Oklahoma Medical Research Foundation
3.	Director (Board of Directors)	Oklahoma Academy for State Goals
4.	Director (non-equity)	Crowe & Dunlevy, P.C.
5.	Trustee (Board of Trustees)	Oklahoma City National Memorial Foundation
6.	Vice President & Governor	Oklahoma Bar Association
7.	Director (Board of Directors)	Oklahoma County Bar Association
8.	Commissioner	American Bar Association, Commission on Homelessness & Poverty
9.	Personal Representative	Estate # 1
10.	Director (Former member of Board of Directors)	Prevent Blindness Oklahoma

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of filing instructions)

☑ NONE - (No reportable agreements.)

	DATE	PARTIES AND TERMS
1.		

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Holmes, Jerome A	2/17/2006

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of filing instructions)

A. Filer's Non-Investment Income

☐ NONE - (No reportable non-investment income.)

	DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
1.	2005	Crowe & Dunlevy, P.C., Salary	$62,758
2.	2006	Crowe & Dunlevy, P.C., Salary	$12,054
3.			

B. Spouse's Non-Investment Income - (If you were married during any portion of the reporting year, please complete this section. Dollar amount not required except for honoraria.)

☐ NONE - (No reportable non-investment income.)

	DATE	SOURCE AND TYPE
1.		

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children. See pp. 25-27 of instructions.)

☐ NONE - (No such reportable reimbursements.)

	SOURCE	DESCRIPTION
1.		Exempt

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	Holmes, Jerome A	2/17/2006

V. GIFTS. (Includes those to spouse and dependent children. See pp. 28-31 of instructions.)

☐ NONE - (No such reportable gifts.)

	SOURCE	DESCRIPTION	VALUE
1.		Exempt	

VI. LIABILITIES. (Includes those of spouse and dependent children. See pp. 32-34 of instructions.)

☐ NONE - (No reportable liabilities.)

	CREDITOR	DESCRIPTION	VALUE CODE
1.	CitiBank	Promissory Note - Student Loan	J
2.	Sallie Mae	Promissory Note - Student Loan	J

FINANCIAL DISCLOSURE REPORT
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Name of Person Reporting	Date of Report
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VII. INVESTMENTS and TRUSTS – income, value, transactions (includes those of the spouse and dependent children. See pp. 34-57 of filing instructions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	B. (2) Type (e.g. div. rent. or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	C. (2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g. buy, sell, merger, redemption)	If not exempt from disclosure (2) Date: Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
☐ NONE (No reportable income, assets, or transactions)									
1. Bank of Oklahoma, Accounts	A	Interest	J	T	Exempt				
2. Estate # 1 (Sole Remaining Asset, Accounts)	D	None							

1. Income/Gain Codes:	A = $1,000 or less	B = $1,001-$2,500	C = $2,501-$5,000	D = $5,001-$15,000	E = $15,001-$50,000
(See Columns B1 and D4)	F = $50,001-$100,000	G = $100,001-$1,000,000	H1 = $1,000,001-$5,000,000	H2 = More than $5,000,000	
2. Value Codes:	J = $15,000 or less	K = $15,001-$50,000	L = $50,001-$100,000	M = $100,001-$250,000	
(See Columns C1 and D3)	N = $250,000-$500,000	O = $500,001-$1,000,000	P1 = $1,000,001-$5,000,000	P2 = $5,000,001-$25,000,000	
	P3 = $25,000,001-$50,000,000		P4 = $More than $50,000,000		
3. Value Method Codes	Q = Appraisal	R = Cost (Real Estate Only)	S = Assessment	T = Cash/Market	
(See Column C2)	U = Book Value	V = Other	W = Estimated		

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VIII. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report.)

Part VII, line 2: The sole asset of Estate # 1, bank accounts, was distributed to the heirs before the end of the reporting period, in or about the summer of 2005.

Part III.A: Filer's non-investment income for 2004 and part of 2005 includes U.S. Government Salary.

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
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IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature Jerome A. Holmes Date 02/16/2006

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		4	099	Notes payable to banks-secured			
U.S. Government securities-add schedule				Notes payable to banks-unsecured			
Listed securities-add schedule				Notes payable to relatives			
Unlisted securities--add schedule				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		26	677
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable-add schedule		148	454
Real estate owned-add schedule		171	273	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		43	500	Student Loans		20	624
Cash value-life insurance							
Other assets itemize:							
Federal Thrift Savings Plan		202	059				
				Total liabilities		195	755
				Net Worth		225	176
Total Assets		420	931	Total liabilities and net worth		420	931
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Real Estate Owned	
Personal residence	$ 171,273
Real Estate Mortgages Payable	
Personal residence	$ 148,454

III. GENERAL (PUBLIC)

1. **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.**

   While in private practice at Steptoe & Johnson, in Washington, D.C., I handled a pro bono landlord-tenant matter, representing an elderly indigent client. The matter was litigated in approximately 2003-2004 in the Superior Court of the District of Columbia. To the best of my recollection, I devoted in the neighborhood of 100 hours to the matter. After significant depositions, we reached a satisfactory negotiated resolution of the matter with the landlord. During my tenure in the U.S. Attorney's Office, I was reluctant to become involved in the provision of legal services to the disadvantaged because of the possibility of conflicts of interest with my government employment. However, my concern for the legal and other needs of the economically disadvantaged is strong and long-standing. I have regularly made generous financial contributions to Legal Aid of Western Oklahoma and its successor organization, Legal Aid of Oklahoma. Legal Aid has been directly involved in providing legal services in civil matters to the indigent. I also am a Fellow of the Oklahoma Bar Foundation (OBF), the charitable arm of the Oklahoma Bar Association. Fellows pledge to annually contribute at least $100 to the OBF for 10 years. The OBF awards grants for a variety of worthwhile law-related projects, including those involving the provision of legal services to Oklahoma's poor. Moreover, since 2003, I have served on the Board of Directors of City Rescue Mission, the largest provider in Oklahoma of emergency-shelter and other social services to the homeless. Currently, I am Chair of City Rescue Mission's Board. In addition, since entering private practice in August 2005, I have secured a position on the ABA's Commission on Homelessness & Poverty. During my period in private practice, I anticipate being involved in the direct provision of legal services to the disadvantaged.

2. **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. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?**

   For more than 2 years (2003 to 02/2006), I was a member of the Men's Dinner Club of Oklahoma City. The Club is composed of business leaders, lawyers, judges, physicians, and members of other professions. Club members meet monthly throughout much of the

year to socialize, enjoy dinner, and hear entertaining or thought-provoking speakers. To the best of my knowledge, the Club's membership is restricted to men. I have been the subject of racial prejudice during my life and abhor prejudice in all its forms. I did not perceive the Club as practicing invidious discrimination. Nevertheless, I resigned from the Club, effective February 2, 2006, to avoid any possible suggestion of impropriety.

I was a member of an all-male fraternity in college, Theta Chi. I was a member from the beginning of 1980 through the school year of 1983.

3. **Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).**

I am not aware of the existence, or operation of, a selection commission with respect to the judicial post for which I have been nominated. I did not appear before such a commission. I submitted my resume to the two Oklahoma senators, along with a cover letter expressing my interest in being nominated by President Bush for a judicial post. I met with Senator Tom Coburn on two occasions. I spoke on the telephone with Senator Inhofe approximately three times. Senator Inhofe had previously interviewed me personally in 2001, when I sought to be appointed U.S. Attorney for the Western or Northern District of Oklahoma. Subsequently, I was interviewed by representatives from the White House Counsel's Office and the Department of Justice. After undergoing a background investigation and completing nomination paperwork, the President forwarded my nomination to the Senate on February 14, 2006.

4. **Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.**

No.

5. **Please discuss your views on the following criticism involving "judicial activism."**

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped-many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;

b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;

c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;

d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and

e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

The judiciary has an important but limited role to play in our scheme of government. It should interpret and apply the laws with the highest degree of intelligence, integrity, and impartiality. The judiciary should not, however, attempt to usurp the role of the political branches through, for example, conceiving and implementing public policies from the bench, or issuing rulings that go beyond the resolution of the dispute before the court to impose wide-ranging obligations on societal groups. The work of the courts is more likely to be viewed as legitimate by the public when the judiciary does not overstep the boundaries of its role in our governmental system.

The role of the federal judiciary is set out in the United States Constitution. The Constitution establishes the three branches of government and gives each a separate realm of power. The legal doctrine of separation of powers recognizes and affirms this aspect of the Constitution. Any contravention of the doctrine of separation of powers consequently impairs the constitutional plan for the functioning of our government. Judges who might seek to make law, not interpret it, usurp the legislative power invested by the Constitution in Congress.

In our federal system, courts are limited to the resolution of cases or controversies by the Constitution. Furthermore, judges should apply principles of self restraint in determining whether matters fall fairly within their jurisdiction. Judges should not take a loose view of jurisdictional requirements such as standing and ripeness. Such an approach is contrary to law, and, in some instances, it may contradict the will of Congress that has deliberately defined in a particular setting the appropriate preconditions for a lawsuit. Lastly, judges must follow the well-established principle of stare decisis, which generally requires courts to respect legal precedent and, in particular, requires inferior courts to follow binding precedent. When judges attempt to solve societal problems that go beyond the concrete legal disputes before them, there is a significant risk that they will stray from the path of prior legal decisions.

AFFIDAVIT

I, Jerome A. Holmes, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

February 6, 2006
(DATE)

Jerome A. Holmes
(NAME)

Jody L. Moore
(NOTARY)

JODY L. MOORE
Notary Public
State of Oklahoma
Commission # 01002773 Expires 2/15/09