AMENDED 12/28/02

I. BIOGRAPHICAL INFORMATION (PUBLIC)

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

Deborah Louise Cook [sometimes known as Deborah Cook Linton]

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

Residence: Akron OH 44303
Office: Supreme Court of Ohio, 30 E. Broad St. Columbus OH 44366

3. Date and place of birth.

February 8, 1952, Pittsburgh, PA.

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

Married to Robert F. Linton, attorney/managing partner of Roderick Linton, 1500 One Cascade Plaza, Akron, OH 44308

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

University of Akron from 9/70 to 6/74, B.A. degree granted 6/74.
University of Akron School of Law from 9/75 to 3/78; J.D. degree granted 6/78.

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.

Employers:

08/74–09/74	**First National Bank (nka First Merit), Akron, OH**
11/74–03/75	**Red Onion Restaurant, Aspen, CO**
11/74–03/75	**Little Nell Restaurant, Aspen, CO**
01/75–03/75	**Donny's Dog House, Aspen, CO**
5/75–12/75	**Akron Beacon Journal, Akron, OH**
6/76–12/90	**Roderick, Myers & Linton, Akron, OH**
2/91–01/95	**State of Ohio, Ninth District Court of Appeals, Akron, OH**
01/95–present	**State of Ohio, Supreme Court of Ohio, Columbus, OH**

Nonprofit organizations and approximate dates of participation:

1983-1986	**Junior League of Akron (Director)**
1984-1987	**Akron Women's Network (Director)**
1984-1986	**Akron Bar Association Foundation (Trustee and President)**
1987-1993	**Akron Area Volunteer Center (Trustee and President)**
1994-1996	**Stan Hywet Hall and Gardens Foundation (Trustee)**
1994-1996	**Summit County United Way (Trustee)**
1999-to date	**Collegescholars, Inc. (Trustee)**
2001 to date	**Akron Art Museum**

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.

Honorary Doctor of Laws degree, University of Akron, 1996,

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.

Fellow of the American Bar Foundation; Fellow and past president of the Akron Bar Foundation (mid 1980's); sustaining member of Akron Bar Association; Ohio State Bar Association; American Bar Association; Ohio Appellate Judges Association, Fellow of the Ohio Bar Foundation, United States Constitutional Law Association, Appellate Lawyers Association, University of Akron Intellectual Property Advisory Council.

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.

Ohio Appellate Judges Association, Ohio State Bar Association, Akron Bar Association, United States Constitutional Law Association, The Supreme Court Historical Society, Ohio Historical Society.

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 that require special admission to practice.

The Ohio Supreme Court, admitted November 1978.
The United States District Court for the Northern District of Ohio, admitted November 1981.
Supreme Court of the United States, admitted February 1999.

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.

Survey of Ohio Law, Ohio Northern University Law Review, 1995 22 Ohio N.U.L.Rev. 561. (attached)

Survey Ohio Law, Ohio Northern University Law Review, 1999, 25 Ohio N.U.L.Rev. 415. (attached)

Outline of remarks given occasionally during campaigns regarding the role of judges. (attached)

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

Very good -- last physical examination 12/02

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.

January 1991 to December 1994 -- Judge, Ohio Court of Appeals, Ninth District, with general appellate jurisdiction [elected by voters in District with population of approximately one million.]

January 1995 to December 2000 -- Justice, Supreme Court of Ohio with certiorari jurisdiction in addition to certain original and appellate jurisdiction assigned by statute. [elected statewide in November 1994]

January 2001 to present -- Justice, Supreme Court of Ohio [reelected statewide in November 2000]

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.

Minton v. Honda of Am. Mfg., Inc. (1997), 80 Ohio St.3d 62, 684 N.E.2d 648 (Cook, J., dissenting); abrogated by *Geier v. American Honda Motor Co., Inc.* (2000), 529 U.S. 861, 120 S.Ct. 1913, 146 L.Ed.2d 914. [Airbag/implied pre-emption]

Am. Assn. of Univ. Professors, Cent. State Univ. Chapter v. Cent. State Univ. (1998), 83 Ohio St.3d 229, 699 N.E.2d 463 (Cook, J., dissenting); certiorari granted and judgment reversed by *Central State University v. American Ass'n of University Professors, Central State University Chapter* (1999), 526 U.S. 124, 119 S.Ct. 1162, 143 L.Ed.2d 227; opinion on remand, *Am. Assn. of Univ. Professors, Cent. State Univ. Chapter v. Cent. State Univ.* (1999), 87 Ohio St.3d 55, 717 N.E.2d 286 (Cook, J.). [Equal Protection/rational basis review]

State v. Reiner (2000), 89 Ohio St.3d 342, 731 N.E.2d 662 (Cook, J., concurring in part and dissenting in part); certiorari granted and judgment reversed by *Ohio v. Reiner* (2001), --- S.Ct. ---, 2001 WL 262448. [Fifth Amendment privilege against self-incrimination]

City of Seven Hills v. Aryan Nations (1996), 76 Ohio St.3d 304, 667 N.E.2d 942 (Cook, J.). [Strict scrutiny of Seven Hills picketing ordinance related to Demjanjuk's return]

Sutowski v. Eli Lilly & Co. (1998), 82 Ohio St.3d 347, 696 N.E.2d 187 (Cook, J.). [Rejecting market-share liability concept in DES cases]

Rice v. CertainTeed Corp. (1999), 84 Ohio St.3d 417, 704 N.E.2d 1217 (Cook, J.). [Punitive damages may be awarded under Ohio employment discrimination statute]

Dresher v. Burt (1996), 75 Ohio St.3d 280, 662 N.E.2d 264 (Cook, J., dissenting). [Application of US Supreme Court's *Celotex* case; summary judgment]

Kulch v. Structural Fibers (1997), 78 Ohio St.3d 134, 677 N.E.2d 308 (Cook, J., dissenting); certiorari denied, (1997), 522 U.S. 1008, 118 S.Ct. 586, 139 L.E.2d 423. [Expansion of retaliatory discharge remedies for "whistleblowers" beyond those prescribed by statute.]

Johnson v. BP Chemicals, Inc. (1999), 85 Ohio St.3d 298, 707 N.E.2d 1107 (Cook, J., dissenting). [Unconstitutionality of employer intentional tort statute]

NCR Corp. v. U.S. Mineral Products Co. (1995), 72 Ohio St.3d 269, 649 N.E.2d 175 (Cook, J.).

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:

[Note: participated in deciding over one thousand appeals in four years.]

A. 9th District Opinions Authored by Cook, J., and Reversed

***Turner v. Turner* (Aug. 14, 1991), Lorain App. No. 91CA004961, 1991 WL 156563.** Judgment reversed by 67 Ohio St.3d 337 (1993).

- Opinion by Cook, J. Cacioppo, J., concurring; Quillin, P.J., dissenting without opinion. Affirmed summary judgment in favor of defendant in a negligence action brought by son against mother. Summary judgment on basis that plaintiff's affidavit failed to "show affirmatively that the affiant *** is competent to testify" on whether defendant breached duty of care.
- Supreme Court reversed and remanded to trial court. Held that visual impairment does not affect witness competency under Evid.R. 601 and therefore cannot be a basis for deciding not to consider affidavit. Also held that a moving party cannot get summary judgment when his affidavit in support of summary judgment is inconsistent with earlier deposition.

***Local 330, Akron Firefighters Assn., (AFL-CIO) v. Romanoski* (Sept. 9, 1992), Summit App. No. 15514, 1992 WL 224486.** Judgment reversed by 68 Ohio St.3d 596 (1994).

- Opinion by Cook, J., joined by Cacioppo, P. J., and Reese, J. Firefighters believed that fire chief's assignments of certain employees constituted appointments or promotions outside established procedure. Trial court granted summary judgment in favor of Firefighters. Ninth District reversed, deciding that the assignments did not alter any employee's civil service classification or status, pay rights, or privileges; thus there were no "promotions" or "appointments" according to Civil Service procedures.
- Ohio Supreme Court reversed, holding that fire chief could not temporarily assign certain classified employees to serve as acting lieutenants or acting captains without approval of civil service commission.

***State v. Johnson* (Nov. 4, 1992), Summit App. No. 15065, 1992 WL 328492.** Judgment reversed by 71 Ohio St.3d 332 (1994).

- Opinion by Cook, J. Quillin and Cacioppo, JJ, concurring. Affirmed aggravated-murder conviction and death sentence. Defendant had been convicted of two death specifications: R(2929.04(A)(5)(prior purposeful homicide conviction) and (A)(7) (kidnapping and/or rape). Supreme Court reversed convictions and remanded to trial court.
- Supreme Court held that defendant's prior 2d degree murder conviction in Florida could not form basis for "prior homicide" specification because Florida statute did not require purpose to kill.

Campbell v. Rockynol Retirement Community **(Dec. 15, 1993), Summit App. No. 16286, 1993 WL 526611.** Judgment reversed by 71 Ohio St.3d 144 (1994).

- Opinion by Cook, P.J. Dickinson, J., concurring and Reece, J., concurring in part. Affirmed summary judgment (for employer) on an RC 4112.99 employment discrimination claim on statute-of-limitations grounds. Also found the appeal frivolous under App.R. 23 and ordered appellant to pay $250 in atty fees to appellee. (The appellant did not even cite to the controlling authority from Ninth District in his brief.)
- Supreme Court summarily reversed on authority of *Cosgrove v. Williamsburg of Cincinnati Mgt. Co., Inc.* (1994), 70 Ohio St.3d 281, which held that RC 4112.99 is subject to a six-year SOL. *Cosgrove* was decided nine months after the Ninth District issued its decision; the Ninth District had relied on controlling precedent from its own district.

Reid, Johnson, Downes, Andrachik & Webster v. Lansberry, **(Aug. 12, 1992), Summit App. No. 15449, 1992 WL 194287.** Judgment reversed by 68 Ohio St.3d 570 (1994).

- Opinion by Cook, J. Baird, P.J., and Reece, J., concurring. Case involved fee dispute for legal services performed by law firm that the client had allegedly discharged. Trial court had allowed only quantum meruit recovery by law firm. Ninth District reversed on basis of a guaranty agreement executed after client changed attorneys.
- Supreme Court reversed in 4-3 decision. The court held that quantum meruit doctrine controlled and not the guaranty contract. The law firm was not allowed to condition the return of case file to client on the client signing the guaranty contract.

Adamsky v. Buckeye Local School Dist. **(Feb. 23, 1994), Medina App. No. 2258-M, 1994 WL 64699.** Judgment reversed by 73 Ohio St.3d 360, 653 N.E.2d 212 (1995).

- Opinion by Cook, J. Plaintiff in personal injury suit appealed trial court's dismissal of complaint on statute-of-limitations grounds. Ninth District affirmed, deciding that statute of limitations contained in R.C. 2744.04 was constitutional as applied to minors.
- Ohio Supreme Court reversed, finding R.C. 2744.04 was unconstitutional as applied to minors on Equal Protection grounds, applying "rational basis" test.

B. Ninth District Opinions <u>Joined</u> by Justice Cook and Reversed.

Allen v. R.G. Industrial Supply Co. **(Oct. 9, 1991), Summit App. No. 15005, 1991 WL 207865.** Reversed by 66 Ohio St.3d 229.

- Opinion by Baird, P.J. Cook, J., concurring; Cacioppo, J., concurring only in judgment. Affirmed summary judgment in favor of defendants on a personal injury complaint. Primary reason for affirmance was accord and satisfaction: plaintiff had cashed check from defendants' insurer but had refused to sign release form accompanying it.
- Supreme Court reversed finding genuine issues of material fact on the issue of accord and satisfaction.

City of Akron v. Rowland **(April 8, 1992), Summit App. No. 15307, 1992 WL 74200.** Judgment reversed by 67 Ohio St.3d 374 (1993).

- Opinion by Quillin, P.J., joined by Cook, J., and Cacioppo, J. Ninth District affirmed conviction for loitering for the purpose of engaging in drug-related activity, holding that the ordinance was neither unconstitutionally vague nor overbroad.
- Ohio Supreme Court reversed in a 4-3 decision authored by Wright, J., holding that the Akron ordinance could only be interpreted as impermissibly vague or overbroad.

***Wright v. Bloom* (Jan. 27, 1993), Summit App. No. 15665, 1993 WL 20980.** Judgment reversed by 69 Ohio St.3d 596 (1994).

- Opinion by Baird, P.J., joined by Cook, J. Reece, J., dissented. Wright sought declaratory judgment seeking funds on deposit in certain joint and survivorship accounts to be declared as assets of the estate. Trial court granted summary judgment to Wrights, and the Ninth District affirmed, applying Ohio Supreme Court decision *State v. Thompson* (1981).
- Ohio Supreme Court reversed, clarifying *Thompson* and resolving a conflict among the districts as to its proper interpretation. The Ohio Supreme Court held that survivorship rights under a joint and survivorship account of the co-party or parties (to the sums remaining on deposit at the death of the depositor) may not be defeated by extrinsic evidence that the decedent did not intend to create in such surviving party or parties a present interest in the account during the decedent's lifetime.

***SER Boggs v. Springfield Local Sch. Dist. Bd. of Edn.* (Jan. 19, 1994), Summit App. No. 16451, 1994 WL 18649.** Judgment reversed by 72 Ohio St.3d 94 (1995).

- Opinion by Reece, J. Cook, P.J., and Quillin, J., concurring. Denied relators' petition for writ of mandamus, which sought reinstatement to former positions in school district. (Relators were bus drivers and bus mechanics)
- Ohio Supreme Court reversed, holding that relators' complaint overcame Civ.R. 12(B)(6) by alleging facts that (if true) showed legal duty on part of the Board deciding that the court of appeals failed to take all factual allegations as true.

***State v. Brooks* (July 13, 1994), Summit App. No. 16192, 1994 WL 362143.** Judgment reversed by 75 Ohio St.3d 148 (1996).

- Opinion by Quillin, J., with Reece, P.J., and Cook, J., concurring. Ninth District affirmed conviction and death sentence, deciding that trial court did not deny defendant a fair trial with improper instructions in penalty phase. Appellant had not objected, so the appellate panel applied plain error doctrine.
- Ohio Supreme Court affirmed convictions but remanded for re-sentencing, deciding that appellant had not waived error for purposes of plain error rule because counsel requested a proper instruction before the judge read the faulty one, and that the erroneous instruction undermined the reliability of the sentence.

***Fisher v. Neusser* (July 20, 1994), Summit App. No. 16491, 1994 WL 376842.** Judgment reversed by 74 Ohio St.3d 506 (1996).

- Opinion by Quillin, J., with Cook, J., concurring and Reece, P.J., concurring in judgment only. The Ninth District invalidated an Akron municipal taxation ordinance as applied to lottery winnings. Held that lottery winnings were "intangible income" under R.C. 718.01(A)(4) and thus exempt from municipal taxation.
- Ohio Supreme Court reversed, holding that "intangible income" does not include gambling winnings, and that lottery winnings were properly included under definition of gambling winnings.

***Ross v. Tom Reith, Inc.* (Sept. 14, 1994), Lorain App. Nos. 93A5752, 93CA5805, 1994 WL 500858,** reversed by 71 Ohio St.3d 729 (1995), and ***Cyrus v. Henes* (1993), 89 Ohio App.3d 172,** reversed by 70 Ohio St.3d 640 (1994).

- Both opinions by Reece, J, with Quillin and Cook, JJ., concurring. Both cases affirmed the trial court's ruling in premises-liability actions that plaintiffs were time-barred by ten-year statute of repose. *Ross* held that plaintiffs had a reasonable amount of time to institute action after the slip-and-fall at issue in the case. *Cyrus* held that a gas conversion unit was an "improvement to real property" under RC 2305.131 and therefore subject to the statute of repose.
- Supreme Court summarily reversed on authority of *Brennaman v. R.M.I. Co.* (1994), 70 Ohio St.3d 460, which had declared the ten-year repose statute unconstitutional on right-to-remedy grounds.

***State v. Westfall* (Sept. 28, 1994), Summit App. No. 16663, 1991 WL 527883.** Judgment reversed by 71 Ohio St.3d 565 (1995).

- Opinion by Baird, J.; Cook and Dickinson, JJ, concurring. Trial court had granted postconviction relief to defendant convicted of involuntary manslaughter on grounds that a minor misdemeanor could not form predicate for involuntary manslaughter. Ninth Distist relied on *res judicata*; defendant had fully litigated that basis on his direct appeal. Even though supervening decision by Supreme Court had changed law in defendant's favor on this point, Ninth Distist relied on principles of finality.
- Supreme Court reversed summarily. The court simply granted the discretionary appeal and reversed on authority of *State v. Collins* (1993), 67 Ohio St.3d 115, which had held that minor misdemeanor may not serve as underlying predicate offense for RC 2903.04(B) involuntary manslaughter.

(3) CITATIONS FOR SIGNIFICANT OPINIONS ON CONSTITUTIONAL ISSUES

A. Ohio Supreme Court Opinions

Seven Hills v. Aryan Nations (1996), 76 Ohio St.3d 304, 667 N.E.2d 942
State ex rel. Patterson v. Indus. Comm. (1996), 77 Ohio St.3d 201, 672 N.E.2d 1008
State v. Lovejoy (1997), 79 Ohio St.3d 440, 683 N.E.2d 1112
Buckeye Community Hope Found. v. Cuyahoga Falls (1998), 81 Ohio St.3d 559, 692 N.E.2d 997
AL Post 763 v. Ohio Liquor Control (1998), 82 Ohio St.3d 109, 694 N.E.2d 905
Am. Assn. of Univ. Professors, Cent. State Univ. Chapter v. Cent. State (1998), 83 Ohio St.3d 229, 699 N.E.2d 463. Majority reversed by United States Supreme Court. See [1999], 87 Ohio St.3d 55, 717 N.E.2d 286).
SER Pizza v. Rezcallah (1998), 84 Ohio St.3d 116, 702 N.E.2d 81.
Johnson v. BP Chemicals, Inc. (1999), 85 Ohio St.3d 298, 707 N.E.2d 1107
Am. Assn. of Univ. Professors, Cent. State Univ. Chapter v. Cent. State (1999), 87 Ohio St.3d 55, 717 N.E.2d 286
Maumee v. Weisner (1999), 87 Ohio St.3d 295, 720 N.E.2d 507
State v. Arnett (2000), 88 Ohio St.3d 208, 724 N.E.2d 793
Humphrey v. Lane (2000), 89 Ohio St.3d 62, 728 N.E.2d 1039
SER Bray v. Russell (2000), 89 Ohio St.3d 132, 729 N.E.2d 359
McKimm v. Ohio Elections Comm. (2000), 89 Ohio St.3d 139, 729 N.E.2d 364
State v. Reiner (2000), 89 Ohio St.3d 342, 731 N.E.2d 662
State v. Sullivan (2000), 90 Ohio St.3d 502, 739 N.E.2d 788
State v. Murphy (2001), 91 Ohio St.3d 516, 747 N.E.2d 765
State v. Scott (2001), 92 Ohio St.3d 1, 748 N.E.2d 11
Holeton v. Crouse Cartage Co. (2001), 92 Ohio St.3d 115, 748 N.E.2d 1111.

Wampler v. Higgins (2001), 93 Ohio St.3d 111, 752 NE2d 962.
State v. Issa (2001), 93 Ohio St.3d 49, 72, 752 NE2d 904, 928.
DeRolph v State, (2001) 93 Ohio St.3d 309, 760 N.E.2d 351
DeRolph v State, (2001) 93 Ohio St.3d 628, 758 N.E.2d 1113
State v. Burnett, (2001) 93 Ohio St. 3d 419, 755 N.E.2d 857
State v. Thompson, (2002) 95 Ohio St.3d 264, 767 N.E.2d 251
State v. Hayden, 96 Ohio St.3d 211, 773 N.E.2d 502 (2002)
DeRolph v. State, (2002), 97 Ohio St.3d ___, 2002-Ohio-6750, ___ N.E.2d ___
State v. Lott, (2002) 97 Ohio St.3d 303, 2002-Ohio-6625, ___ N.E.2d ___
State v. Walls, (2002) 96 Ohio St.3d 437, 2002-Ohio-5059, 773 N.E.2d 1018
Wallace v. Ohio Dept. of Commerce, Div. of State Fire Marshal, 96 Ohio St.3d 266, 2002-Ohio-4210, 773 N.E.2d 526

B. Ninth District Court of Appeals Decisions

State v. Adams (1991), 74 Ohio App.3d 140, 598 N.E.2d 719
State v. Brown (May 1, 1991), Lorain App. Nos. 90CA004836, 90CA004838, 1991 WL 70817
State v. Jacobs (May 15, 1991), Summit App. No. 14881, unreported, 1991 WL 81647
State v. Plant (May 15, 1991), Summit App. No. 2599, 1991 WL 81650
State v. Noland (June 19, 1991), Lorain App. No. 90CA004917, unreported, 1991 WL 116310
Smith v. Akron City Hospital (Sept. 4, 1991), Summit App. No. 14980, unreported, 1991 WL 172911
State v. Stafford (July 14, 1993), Lorain App. No. 92CA005476, unreported, 1993 WL 263083
Hudson v. South (1994), 99 Ohio App.3d 208, 650 N.E.2d 172
State v. Riley (Dec. 14, 1994), Lorain App. No. 16582, unreported, 1994 WL 700080
State v. Stevens (Dec. 30, 1994), Summit App. No. 16582, unreported, 1994 WL 721859
State v. Bilder (1994), 99 Ohio App.3d 653, 651 N.E.2d 502

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.
I have only sought election to judicial 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;
No.
2. whether you practiced alone, and if so, the addresses and dates;
No.
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;

Roderick Linton from 1976 to 1991
1500 One Cascade Plaza, Akron OH 44308

Prior to assuming judicial office, I worked with only one law firm. Roderick Linton (formerly Roderick, Myers & Linton), Akron's oldest law firm, has had from 15-30 attorneys at any given time during my tenure with the firm from 1978 through 1990. About 70% of the firm's work involves litigation in state and federal courts in Northeast Ohio.
I started with the firm as a law clerk in 1976 working part-time [and full-time during school breaks] until I finished law school in March 1978. The firm then hired me as an associate. My hiring marked the first time this old-line firm had hired a woman as an attorney. In 1983 I became the first female partner in the firm's century of existence.

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?

During my initial years with the firm, I worked for several of the partners. I appeared in bankruptcy, common pleas, state appellate and federal district courts. I worked primarily with two partners. One represented a national bank and that work occupied about 40% of my time. The other partner had a diverse business and business litigation practice. Representative clients of this managing partner and the work assigned to associates included: claims litigation for FirstEnergy Company (formerly Ohio Edison), employment and claims litigation for K-Mart, Yellow Freight Co. claims litigation and workers compensation, Ryan Homes, Inc., and Price Brothers Inc., and the Summit County Medical Society.

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

Typical former clients included: Ohio Edison [nka FirstEnergy], Kmart, Akron National Bank [nka National City Bank], Ryan Homes, Aetna Insurance, Shand-Morehand Insurance Co., Empire Insurance, Stallion Oil Company, Yellow Freight Trucking, Akron Area Board of Realtors.

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.

I appeared frequently in courts around Northeast Ohio throughout my years with the law firm.

2. What percentage of these appearances was in:
(a) federal courts;
(b) state courts of record;

(c) other courts.

My court appearances were divided between state and federal courts with state court percentage being about 70% and federal courts, approximately 30%.

3. What percentage of your litigation was:
   (a) civil;
   (b) criminal.

My practice was 100% civil in nature.

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 estimate the number of cases in courts of record tried to verdict or judgment in my 12 years of practice to be 50. I estimate that I was "first chair" 75% of the time and "second chair" 25% of the time.

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

Of those trials, I conservatively estimate that 80% were non-jury and 20% were jury.

18. Litigation: Describe the ten most significant litigated matters that 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.

Because I have been out of the private practice of law for more than twelve years, and because my firm has destroyed all the closed files I worked on (the files would have been between ten and twenty four years old), I am relegated to searching for reported cases that list my name as counsel. This method only produced a handful of cases and I have listed them below.

***Barker v. Scovill, Inc., Schrader Bellows Div.* (1983), 6 Ohio St.3d 146.**
Barker v. Scovill, Inc., Schrader Bellows Div. (June 9, 1982),
Summit App. No. 10553,unreported, 1982 WL 5036.

Following her termination of employment, appellee-plaintiff Jean C. Barker brought an age discrimination suit against her former employer, appellant-defendant Scovill, Inc. During staff cuts, forty-nine-year-old Barker had refused a lower paying job and had left the company. While she was not replaced, Barker's duties were absorbed primarily by a twenty-two year-old employee and Scovill's remaining staff. The trial court found that Scovill, Inc. had discriminated against Barker in violation of R.C. 4101.17, which precluded age discrimination.

Scovill, Inc. appealed to the Ninth District Court of Appeals. The court of appeals reversed the decision of the trial court and entered judgment in favor of the company. In so doing, the court held that, even assuming that Barker had been terminated, she had failed to demonstrate as required that she had been replaced by a younger person outside the protected age group. Further, the appellate court found that the company had articulated a non-discriminatory reason for the termination that Barker had failed to prove was pretextual.

Barker then appealed to the Ohio Supreme Court. A majority of that court affirmed the court of appeals, holding that because she had elected termination with severance pay, Barker had not been discharged. The majority further found that Barker had failed to prove that she had not been dismissed for a legitimate reason. The dissent explained that because the record indicated a substantial evidentiary basis for the trial court's factual determinations, both appellate courts overstepped their limited roles.

I represented Barker throughout the trial and appellate proceedings.
(Trial judge: Glen Morgan)
(Court of Appeals Panel: Quillin, Mahoney, and Victor, JJ.)
(Ohio Supreme Court majority: Locher, Frank D. Celebrezze, William B. Brown, Sweeney, Holmes, and Clifford F. Brown, JJ. Dissent: James P. Celebrezze, J.)

Clients:	Plaintiff-appellee (in court of appeals), appellant (in Ohio Supreme Court) Jean C. Barker
Co-counsel:	none
Counsel for other party:	Timothy J. Sheeran and L. Lee Boatright Squire, Sanders & Dempsey, 1800 Union Commerce Bldg. Cleveland, OH 44115 (216) 479-8605

Pedler v. Aetna Life Ins. Co. (1986), 23 Ohio St.3d 7; ***Pedler v. Aetna Life Ins. Co.*** (May 15, 1985), Summit App. No. 11965, unreported, 1985 WL 10793

The plaintiff in this case sought supplemental life insurance under an additional policy purchased by her husband. Prior to his death, the husband had been the CEO of a company that held a group life insurance policy with Aetna Life Insurance Company. The man had enrolled in a supplemental life insurance program through his employment. Aetna denied the supplemental coverage, relying on language in the insurance plan that rendered employees with less than two years of service ineligible for the additional

coverage. The trial court granted summary judgment in favor of the plaintiff, finding that Aetna was estopped from denying coverage.

The court of appeals reversed that decision, finding that the estoppel doctrine did not apply because the plaintiff's husband had sufficient information to have known that he was ineligible for supplemental life coverage. The plaintiff then appealed to the Ohio Supreme Court. In a March 26, 1986 opinion, that court affirmed the court of appeals. The Supreme Court held that because the insured knew or should have known of his ineligibility, Aetna did not have to pay the additional insurance. I participated in the proceedings in the court of appeals. The Ohio Supreme Court granted discretionary review and I briefed and argued the cause before that court.

(Court of Appeals Panel: George, Baird, and Quillin, JJ.)
(Ohio Supreme Court majority: Douglas, Celebrezze, Sweeney, Locher, Holmes, and Wright. Dissent: Clifford F. Brown, J.)

Clients:	Appellee Aetna Life Insurance Co.
Co-counsel:	Robert F. Orth (retired) Roderick Linton One Cascade Plaza, 15th Floor Akron, Ohio 44308 (330) 434-3000
Counsel for other parties:	Oscar A. Hunsicker, Jr. Brouse & McDowell 500 First Nat'l Tower Akron, Ohio 44308 (330) 535-5711

Adair v. Wozniak (1986), 23 Ohio St.3d 174.
Adair v. Wozniak (May 15, 1985), Summit App. No. 11923, unreported, 1985 WL 10784.

Various officers of Houk Machine Company, Inc. and their wives filed a complaint against several individuals and a bank alleging conspiracy to defraud the company of its personal property in connection with the sale and lease-back of its equipment. The trial court granted summary judgment for the defendants, finding that the plaintiffs had no standing to sue individually for the alleged injuries. The court of appeals reversed, holding that standing existed because the plaintiffs had personally guaranteed loans made to Houk Machine.

Both parties appealed to the Ohio Supreme Court in a case of first impression. In an April 30, 1986 opinion, a majority of that court reversed in part and affirmed in part, finding that a plaintiff shareholder does not have an independent cause of action where there is no showing that he has been injured in any capacity other than in common with all other shareholders as a consequence of the wrongful actions of a third party directed toward a corporation. The majority reasoned that the shareholders had no standing to sue even when the shareholders had personally guaranteed corporate obligations, because the guarantees were indirect to the corporation's right of action.

I participated in the summary judgment proceedings in the trial court, the proceedings in the appeals court, and argued the case before the Ohio Supreme Court. My participation in this case ended with the opinion of the Court.
(Appellate panel: Judges Quillin, George, and Mahoney)
(Ohio Supreme Court majority: Celebrezze, C.J., Sweeney, Locher, Holmes, and C. Brown, JJ. Dissent: Douglas, J.).

Clients:	Plaintiff-appellees Harold Adair, Jon and Judy Houk, Clifford and Elaine Houk, and Sylvester and Henrietta Houk
Co-counsel:	Robert F. Linton and Lawrence R. Bach One Cascade Plaza, 15th Floor Akron, Ohio 44308 (330) 434-3000
Counsel for other parties:	David M. Best 4900 West Bath Road Akron, Ohio 44333 (330) 665-1855 John W. Solomon Brouse McDowell First National Tower 106 S. Main St. Akron, Ohio 44308 (330) 535-5711

Delker v. Ohio Edison Co. (1989), 47 Ohio App.3d 1.

This case involved the granting of a motion for summary judgment and an appeal by an employee from that summary judgment rendered in favor of his employer, Ohio Edison. The employee had hurt his knee while getting dressed in an employee's locker room at Edison's facility. Ohio Edison argued that the employee's injury occurred after his work period had ended. The Ninth District Court of Appeals (Reece, Cacioppo, Baird, JJ.) reversed, finding genuine issues of material fact concerning whether the employee's injury occurred in the course and scope of his employment. I represented Ohio Edison at the trial level and briefed and argued the case in the court of appeals.

Clients:	Ohio Edison Company
Co-Counsel:	None
Counsel for Other Parties:	John Anthony Bull P.O. Box 12633 Columbus, OH 43212 (614) 487-1106

Turowski v. Johnson (1990), 68 Ohio App.3d 704

An attorney acting as the administrator of decedent's estate filed wrongful death claims against Ohio Edison and other defendants. The complaint alleged that Ohio Edison

had engaged in willful, wanton, reckless, and malicious conduct in erecting a utility pole 31 inches from the curb. The car in which the decedent had been a passenger had collided with the pole, killing the passenger and the intoxicated driver.

The trial court granted summary judgment in favor of Ohio Edison after the estate was unable to supply any facts or law as to why Ohio Edison should have been liable. The company then moved for attorney fees for frivolous conduct. The trial court denied the motion, finding that the action had been "warranted under existing law."

Ohio Edison appealed the denial of attorney fees to the Ninth District Court of Appeals. In a unanimous decision issued on July 25, 1990, the court of appeals reversed and remanded, holding that the trial court had abused its discretion in ruling that "an action that has no basis in law or fact" was not frivolous. I represented Ohio Edison and argued the cause before the court of appeals.
(Court of Appeals Panel: Baird, Quillin, and Cirigliano, JJ.)

Clients:	Appellant Ohio Edison Company
Co-counsel:	Matthew Oby -former associate who reported to me Oldham & Dowling 195 South Main St. Akron, Ohio 44308 (330) 762-7337
Counsel for other party:	Kenneth Turowski, pro se 88 South Portage Path Akron, Ohio 44302 (330) 836-2292

Austin v. Firestone Tire & Rubber Co. (March 6, 1985), Summit App. No. 11757, unreported, 1985 WL 10723.

Ethel Austin sued Firestone as a surviving spouse of her husband Charles, seeking to recover expenses under the company insurance plan. Though Ethel and Charles had been divorced since 1978, they resumed cohabitation in 1979 and held themselves out as husband and wife until Charles's death in 1981. Soon after filing the complaint, Austin filed a motion for summary judgment and interrogatories. Firestone filed a motion to dismiss and motion to strike, and answered the interrogatories. Austin refiled her motion for summary judgment, and the trial court granted her motion—determining that she was entitled to all benefits as Charles's surviving spouse.

Firestone appealed, arguing that the trial court erred in granting Austin's motion for summary judgment because genuine issues of material fact remained. On March 6, 1985, the Summit County Court of Appeals agreed, deciding that Firestone's answers to the interrogatories raised an issue as to whether Ethel was the surviving spouse and eligible for benefits. Accordingly, the court of appeals remanded the cause for further proceedings (Judges Baird, Ford, and Quillin). I represented Ethel Austin throughout the proceedings.

Client:	Plaintiff-Appellee Ethel Austin	
Co-Counsel:	None	
Counsel for Other Party:	Robert K. Lewis 200 Granger Rd#52 Medina, OH 44256 (877) 433-5025	Gregory L. Hammond 101 Callan Avenue San Leandro, CA (510) 352-5000

Austin v. Firestone Tire & Rubber Co. (April 30, 1986), Summit App. No. 12413, unreported, 1986 WL 5113.

This matter arose out of the same set of facts described in Austin v. Firestone Tire & Rubber Co., above. The trial court decided that my client was the common-law-wife and surviving spouse of Charles Austin, and that she was entitled to the benefits in question. Firestone appealed, claiming that federal law (ERISA) pre-empted state law in this case, and that the trial court could not under federal law declare that Ethel was Charles's surviving spouse. Firestone also claimed that the trial court should have dismissed my client's claim due to a failure to exhaust administrative remedies, and that the trial court erred when it decided that my client had established by clear and convincing evidence the elements of a common-law marriage.

On April 30, 1986, the Summit County Court of Appeals unanimously affirmed the trial court's decision (Judges Quillin, Mahoney, and Baird). On October 17, 1986, the court of appeals granted Firestone's motion for a stay of execution of judgment pending appeal to the United States Supreme Court. See Austin v. Firestone Tire & Rubber Co. (October 17, 1986), Summit App. No. 12413, unreported, 1986 WL 11914 (Judges Mahoney and Baird). I represented Ethel Austin throughout the proceedings.

Client:	Plaintiff-Appellee Ethel Austin	
Co-Counsel:	None	
Counsel for Other Party:	Robert K. Lewis 200 Granger Rd. #52 Medina, OH 44256 (877) 433-5025	Gregory L. Hammond 101 Callan Avenue San Leandro, CA (510) 352-5000

Kyer v. K Mart Corp. (April 29, 1987), Summit App. No. 12865, unreported, 1987 WL 10926.

In this case, Mr. Kyer, an employee of K Mart, sued K Mart following his termination. K Mart terminated Kyer in early 1985 for "Failure to maintain minimum production * * *," but Kyer claimed that K Mart had breached an implied contract of employment with Kyer and had made material representations designed to induce detrimental reliance on his part.

In its interrogatories, the jury decided that Kyer was hired under an "at will" contract. The jury had been instructed that it need not answer remaining interrogatories based on that answer. Kyer appealed, contending that he was deprived of the opportunity to put probative evidence before the jury, that the trial court erred in its jury instructions, and that the trial court erred in failing to enter default judgment or impose sanctions against K Mart. The Summit County Court of Appeals unanimously affirmed the judgment of the trial court on April 29, 1987 (Judges Cacioppo, Quillin, and Baird). I represented K Mart as trial counsel and on appeal.

Client:	Defendant-Appellee K Mart Corporation
Co-Counsel:	None
Counsel for Other Party:	Peter T. Zackaroff 5399 Lauby Rd., Suite 230 North Canton, OH 44720

(330) 966-0095

Aylward v. Ohio Edison Co. (July 5, 1989), Summit App. No. 13961, unreported, 1989 WL 73742.

This case arose out of an accident caused by an Ohio Edison truck. After Ohio Edison admitted liability, the case proceeded to a jury trial on damages. Ohio Edison appealed the jury's award of $17,000 in damages for aggravation of the plaintiff's pre-existing neck injury. The Ninth District Court of Appeals (Mahoney, Baird, Reece, JJ.) affirmed, rejecting Ohio Edison's claim that the damage awarded was unsupported by competent medical testimony. I represented Ohio Edison at trial and on appeal.

Client:	Ohio Edison Company
Co-Counsel:	None
Counsel for other parties:	Bradford M. Gearinger Scanlon & Gearinger 1100 First National Tower Akron, OH 44308 (330) 376-4558

19. Legal Activities: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

Beyond the practice of law and my judicial duties, I have served as a Commissioner on the Ohio Commission for Dispute Resolution and Conflict Management. I have also served on the Technology committee of the Ohio Courts' Futures Commission. I chaired Ohio's Commission on Public Legal Education. I also have taught continuing legal education seminars on oral argument and brief writing.

20. State whether you have ever been convicted of a crime, within ten years of your nomination, other than a minor traffic violation, that is reflected in a record available to the public, and if so, provide the relevant dates of arrest, charge and disposition and describe the particulars of the offense.

No.

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 have an Ohio state pension and deferred compensation that I will be entitled to upon my departure/retirement from my employment with the Ohio judiciary.

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 do not foresee that my existing professional circumstances or personal financial circumstances will present conflicts of interest.
   In the event that any personal asset would present an impediment to fulfilling my duties, I would divest myself of such asset.

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.
   No.

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 AO-10 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.

   I have been the candidate in five judicial campaigns.

FINANCIAL STATEMENT -- NET WORTH
Provide a complete, current financial net worth statement that 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	766502			Notes payable to banks-secured	0		
U.S. Government securities-add schedule	0			Notes payable to banks-unsecured	0		
Listed securities-add schedule	3133910			Notes payable to relatives	0		
Unlisted securities--add schedule	250000			Notes payable to others	0		
Accounts and notes receivable:	0			Accounts and bills due	0		
Due from relatives and friends	0			Unpaid income tax	0		
Due from others	0			Other unpaid income and interest	0		
Doubtful	0			Real estate mortgages payable-add schedule	0		
Real estate owned-add schedule	300000			Chattel mortgages and other liens payable	0		
Real estate mortgages receivable	0			Other debts-itemize:	0		
Autos and other personal property	200000						
Cash value-life insurance	0						
Other assets itemize:							
Annuity	50000						
Deferred compensation account	132642						
				Total liabilities	0		
				Net Worth	4403054		
Total Assets	4403054			Total liabilities and net worth	4403054		
CONTINGENT LIABILITIES	0			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	Qrtly estimate paid qrtly.						
Other special debt	0						

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.

I have consistently devoted time to volunteering. What follows is a non-exhaustive list:

I am a founder/trustee with my husband of Collegescholars, Inc., a mentored college scholarship program for twenty 6/7th graders, all of whom attend Jennings Middle School in Akron. Our friends and family serve as mentors for weekly mentoring sessions. And we have an activity most Saturday mornings. I devote an average of four hours weekly to the scholars and mentoring activities, as I have since the spring of 1999.

I volunteered soliciting contributions from businesses for the United Way of my county. I thereafter served as a member of the Board of Trustees for one year before beginning my judicial career. I continue to work with United Way through its Tocqueville Society.

**I chaired for two years the Junior Leadership Akron project.
That role required about 8 hours per month of my time during each school year.**

I volunteered for six months at the Safe Landing Shelter, two hours per week.

I served as a Commissioner for the Dispute Resolution Commission for two years. It targeted truancy mediation for disadvantaged students.

I served as a Board member and then President of the Akron Volunteer Center. That service encompassed at least three years.

I delivered Mobile Meals on Sundays for approximately one year.

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 that 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?
No.

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).
No, there is no selection commission for Ohio. White House counsel's office contacted me some months after the election of 2000 based on recommendations from the Governor of Ohio and others. I interviewed, completed the FBI forms and other questionnaires and was nominated on 5/9/01.

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 role of courts is to interpret law, not to make law or impose judges' personal preferences in the guise legal scholarship. Law is a discipline and judges must decide issues with proper decision-making tools including statutes, rules and analysis of decisional law. Legal reasoning is to be rooted in a concern for legitimate process rather than preferred results.