

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)
Lawrence Scott Coogler
2. Address: List current place of residence and office address(es).
Tuscaloosa, Alabama
714 Greensboro Avenue, Tuscaloosa, Alabama 35401
3. Date and place of birth.
October 3, 1959
Nantucket, Massachusetts
4. Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).
Mitzi H. Coogler (Hayes)
Certified Public Accountant
Michael H. Echols & Associates
1629 McFarland Blvd. N.
Tuscaloosa, Alabama 35406
5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.
The University of Alabama School of Law
August 1981 through May 1984
Juris Doctor, May 12, 1984
Class Rank 19th out of 161

The University of Alabama
August 1977 through May 1981
Bachelor of Arts, May 10, 1981
Cum Laude
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.

Circuit Court Judge
State of Alabama
Sixth Judicial Circuit
714 Greensboro Avenue
Tuscaloosa, Alabama 35401
01/1999 through present

Adjunct Professor (Trial Advocacy Instructor)
The University of Alabama School of Law
Paul Bryant Drive
Tuscaloosa, Alabama 35487
Spring 2000, Fall 2002, and Spring 2003

Attorney
L. Scott Coogler, P.C.
Attorneys at Law
2121 14th Street
Tuscaloosa, Alabama 35401
10/1996 through 01/1999

Attorney
Coogler & Copeland, P.C.
Attorneys at Law
2121 14th Street
Tuscaloosa, Alabama 34501
10/1991 through 10/1996

Attorney
Coogler, Copeland & Lisenby, P.C.
Attorneys at Law
2209 9th Street
Tuscaloosa, Alabama 35401
10/1990 through 09/1991

Attorney
L. Scott Coogler, P.C.
Attorney at Law
2501 Sixth Street
Tuscaloosa, Alabama 35401
01/1990 through 09/1990

Attorney
Prince, Coogler, Turner & Poole, P.C.
Attorneys at Law
2501 6th Street
Tuscaloosa, Alabama 35401
08/1989 through 01/1990

Attorney
Prince, McGuire & Coogler, P.C.
Attorneys at Law
2501 6th Street
Tuscaloosa, Alabama 35401
05/1985 through 08/1989

Attorney
Prince & McGuire, P.C.
Attorneys at Law
2501 6th Street
Tuscaloosa, Alabama 35401
01/1985 through 05/1985

Attorney
David B. Ellis
Attorneys at Law
610 Lurleen Wallace Blvd. N.
Tuscaloosa, Alabama 35401
10/1984 through 12/1984

Law Clerk
Honorable Paul Conger
Circuit Court Judge
State of Alabama
Sixth Judicial Circuit
714 Greensboro Avenue
Tuscaloosa, Alabama 35401
05/1984 through 10/1984

Law Clerk
David B. Ellis
Attorneys at Law
610 Lurleen Wallace Blvd. N.
Tuscaloosa, Alabama 35401
10/1982 through 05/1984

Investment Entities

Coogler, Copeland and Dorroh (2002 through present)
Joint Venture Real Estate Rental
Member

IHOP, LLC (1999 through present)
Member
Commercial Real Estate Rental

Comprop No. 2, LLC (1997 through present)
Member
Commercial Real Estate Rental

Comprop No. 1, LLC (1997 through 1999)
Member
Commercial Real Estate Rental
Dissolved and liquidated in 2000.

Coker Properties, LLC (1997 through 1999)
Member
Real Estate Development
Dissolved and liquidated in 1999.

Sherwood East, Ltd. (1995 through present)
Limited Partner
Real Estate Rental

Peter Pawn, Inc. (1993 through 1995)
Served as an officer but I don't recall which position.
Corporation was liquidated and dissolved in 1995.

Coogler and Copeland (1991 estimated through present)
Joint Venture
Member
Real Estate Rental

Service without pay:

Wellington Homeowners' Association (Director since
March 2003)
American Christian Academy (Director since 2001)
A Woman's Place, Drug Treatment Facility (Director
since 2001)
FOCUS on Senior Citizens (Director since 2000)
Tuscaloosa County Boys and Girls Club (Director since
1999 and more than ten Years ago)
Miracle Riders (Director more than five years ago)
The University of Alabama Law Enforcement Academy
Alumni Association (President 1980 - 1981)

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.

Alabama Army National Guard
03/1988 through 05/1991
Captain JAG

05/14/1991 Transfer to Inactive Army National Guard
07/21/1997 Honorable Discharge

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

2002 Recipient of the PRIDE President's Award In Recognition of Valuable Contributions to Drug Abuse Prevention

Recipient of an Alabama Judicial College Certificate for the Completion of One Hundred Hours of Continuing Judicial Education, July 1, 2002

Nominated and selected to the position of Barrister, American Inns of Court, 1996

Recipient of the Army Achievement Medal, February 23, 1991

Member of the University of Alabama School of Law National Trial Advocacy Team, Spring 1984

Member of the University of Alabama School of Law Trial Advocacy Board, Fall 1983 through Spring 1984

Best Paper, Advanced Evidence, University of Alabama School of Law, Fall 1983

Honor Graduate
The University of Alabama Law Enforcement Academy
Alabama Peace Officers' Minimum Standards and Training Course
1979

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.

American Bar Association

Tuscaloosa County Bar Association (Member)

Alabama Bar Association (Member)

Alabama Circuit Judges Association (Member)

Elected by the Circuit Judges of the Sixth Judicial Circuit to the position of Presiding Judge of the Circuit in December 2000 served through February 2003

Appointed by the Alabama Supreme Court and serves as a member of the Advisory Council of the Alabama Sentencing Commission

Appointed by the Alabama Supreme Court and serves as a member of the Alabama Civil Pattern Jury Instruction Committee

Appointed by the Alabama Administrative Office of Courts and serves as a member of the Alabama Court Technology Committee

Appointed by the Alabama Administrative Office of Courts and serves as the chairman of the Alabama Time Standards Reporting Review Committee

Elected by the members of the Tuscaloosa County Bar Association to and served as Secretary of the Tuscaloosa County Judicial Selection Commission 1992 through 1998

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.

American Christian Academy (Director since 2001)
FOCUS on Senior Citizens (Director since 2000)
Tuscaloosa County Boys and Girls Club (Director since 2000 and Past Director more than ten years ago)
A Woman's Place, Drug Treatment Facility (Director since 2001)
Brewer Porch Children's Center (Continuous Sponsor since 1993)
Indian Hills Country Club (Member since 1999)
Tuscaloosa County Cattlemen's Association (Member since 1998)
First United Methodist Church of Tuscaloosa (Moved Membership to this church 2001)
Wellington Homeowners' Association (Director since 2003)

The University of Alabama Alumni Association (Member since 1993)

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.

Admitted to Practice Law by the Alabama Supreme Court
September 27, 1984

Admitted to Practice as an Attorney in the United
States District Court for the Northern District of
Alabama on February 26, 1985.

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.

Jury Selection

Presented at an Alabama Continuing Legal Education
Seminar
12/04/2002

Civil Pattern Jury Instruction Update

Presented at the Alabama Circuit and District Judges
Annual Conference
2001

From the Bench

The Alabama Lawyer, Vol. 62, No. 2
March 2001

There are no copies of the speeches I have given and no
press reports of my speeches.

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

Good. My last physical examination was February 7, 2003.

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.

Circuit Court Judge
State of Alabama
Sixth Judicial Circuit
714 Greensboro Avenue
Tuscaloosa, Alabama 35401
1/1999 through present

The Circuit Court in Alabama is an elected court of general jurisdiction. All felonies as well as major civil cases fall within the jurisdiction of the Circuit Court.

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.

- (1) citations for the ten most significant opinions you have written;

As a trial judge, I make most of my rulings on the record in the courtroom without issuing written orders or opinions. I have attached ten of the written orders I have entered.

- i. W. David Nichols, et al., v. Robert L. Bockrath, et al.
CV-1999-385

This case involved a suit filed by an attorney from Birmingham against Robert Bockrath, the University of Alabama Athletic Director, and the University of Alabama. In his suit, Mr. Nichols attempted to assert a class action against the Defendants for alleged misconduct in the athletic office, including, but not limited to, ticket sales. The order I have attached is one of two I entered in the case dismissing his claims. After reviewing the order, Mr. Nichols did not appeal the dismissal.

- ii. Tony M. Richardson, et al., v. Patriot Homes, Inc.
CV-1998-1072

This case involved the sale and subsequent claim for breach of warranty on a manufactured home. The Defendant moved to transfer venue, and the Plaintiffs opposed the transfer. In the attached order, I denied the motion. The Defendant did not seek review by a higher court and the case was ultimately settled.

- iii. Annie Blakeney v. Tree Top - Timberlane II, Sealy Realty, et al.
CV-1998-389

This case involved a Plaintiff who claimed she had been injured in a fall in her apartment. The Plaintiff claimed that the fall was due to the negligence of the Defendants. This order granted a summary judgment in favor of the Defendants. I do not recall if this case was appealed, but if it was, it was affirmed.

- iv. Barbara Sanders as mother and next friend of Kristen Danielle Sanders, et al., v. Shoe Show, Inc.
CV-1998-421

This case involved a claim by the Plaintiffs that the minor children were shopping along with their mother at a local mall when the employees of one of the Defendants and an off-duty Tuscaloosa

police officer confronted the children. The Defendants suspected the children of shoplifting. The Plaintiffs asserted claims of false imprisonment, discrimination, the tort of outrage, negligent hiring, and general negligence. In this order, I granted summary judgment to the Defendants on all counts. The Plaintiffs appealed the ruling, and I was affirmed. *Sanders v. Shoe Show, Inc.*, 778 So. 2d 820 (Ala. Civ. App. 2000).

- v. Ronnie Snow, et al., v. J.A. Moon, et al.
CV-1997-31-C (In the Circuit Court of Washington County, Alabama)

This case was assigned to me, because the judges in Washington County had a conflict in the case. In this case, the Plaintiffs claimed that the Defendants had breached a contract and committed various types of fraud. In this order, I granted summary judgment for the Defendants. This ruling was not appealed.

- vi. Clyde Michael Fields, et al., v. Ricks Hardware, Inc., et al.
CV-1998-108

This case involved a dispute between adjacent property owners in the city limits of Tuscaloosa. The Defendants had placed obstructions across an alley located adjacent to the property of the parties. The Plaintiff asked that the Court order the removal of the obstructions and grant further relief. This is my order following the trial of the case. The case was not appealed.

- vii. James Haywood, et al., v. MGR Corporation, et al.
CV-1998-61

This case involved a claim made by the representatives of the estates of two deceased individuals. The parents of the decedents claimed damages from the Defendants based on negligence, wantonness, and due to the alleged violation of the Alabama Dram Shop Act. The Plaintiffs claimed that the alcoholic beverages served by the Defendants were the cause of the damages they sustained. This is the summary judgment order I

entered on this case. The ruling was not appealed.

- viii. Steve Allen Sullivan v. State Farm Mutual Automobile Insurance Company
CV-2002-250

This case involves a claim by the Plaintiff that the Defendant should be required to pay a judgment based on an insurance policy it had written. The Defendant asserted a driver exclusion clause in the policy, and the Plaintiff argued that because the underlying liability was based on negligent entrustment, the exclusion did not prevent liability. In the attached order, I ruled for the Defendant. This is a matter of first impression in Alabama. I do not know if the Plaintiff will appeal my ruling.

- ix. Mark Edwin Caffee v. State of Alabama
CC-1991-539.61

This is a petition for relief from conviction and sentence filed by the Defendant pursuant to Rule 32 of the Alabama Rules of Criminal Procedure. In his petition, the Defendant asserted various grounds for his claim that he should be relieved of his previous conviction and sentence. I denied the petition. The Defendant appealed the ruling, and I was affirmed. I have also attached the memorandum opinion of the Alabama Court of Criminal Appeals.

- x. Richard Leon Henderson v. State of Alabama
CC-1995-816.60

This is a petition for relief from conviction and sentence filed by the Defendant pursuant to Rule 32 of the Alabama Rules of Criminal Procedure. In his petition, the Defendant asserted various grounds for his claim that he should be relieved of his previous conviction and sentence. I denied the petition.

- (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;

Civil Reversals:

- i. Barger v. Oakwood, 773 So 2d 454 (Ala. 2000)

In this case, the Defendants sought to compel arbitration. I denied the motion, and the Defendants appealed. I was reversed. The case settled when it came back to my court.

- ii. Georgia Harris, et al., v. State of Alabama, 821 So. 2d 177 (Ala. 2001)

This case involved the condemnation of \$165,501 and an automobile alleged to be profits from illegal drug sales. I condemned the money and the automobile. The Alabama Supreme Court affirmed my ruling as to the money, but reversed my ruling on the automobile.

- iii. Cox v. Franklin Homes, Inc., 828 So. 2d 295 (Ala. 2002)

In this case, the Defendants sought to compel arbitration. I granted the motion to compel arbitration, and the Plaintiffs filed petition for writ of mandamus. The writ was granted, and I set aside my ruling on the motion to compel arbitration.

Criminal Reversals:

- i. Timothy Wayne Thomas v. State of Alabama, 2002 WL 31628898 (Ala. Crim. App. 2002)

In this case, the Defendant, who is serving a life sentence for robbery in the first degree, filed a Rule 32 Petition, and I denied it. It appeared from the certificate of judgment in the Circuit Court file that the limitation period had expired. The Court of Criminal Appeals found that the original certificate of judgment was stayed by operation of law or otherwise issued by mistake, thus the Rule 32 petition should not have been dismissed. The Defendant's petition is set for trial.

- (3) citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions.

Most of the criminal cases I have handled involved decisions about constitutional issues such as motions to suppress evidence.

These rulings are often made on the record rather than in written form. I have, however, located the following rulings and opinions on appeals for cases in which such issues were addressed.

- (1) Barbara Sanders as mother and next friend of Kristen Danielle Sanders, et al., v. Shoe Show, Inc., CV-1998-421

This case involved a claim by the Plaintiffs that the minor children were shopping along with their mother at a local mall when the employees of one of the Defendants and an off-duty Tuscaloosa police officer confronted the children. The Defendants suspected the children of shoplifting. The Plaintiffs asserted claims of false imprisonment, discrimination, the tort of outrage, negligent hiring, and general negligence. In this order, I granted summary judgment to the Defendants on all counts. The Plaintiffs appealed the ruling, and I was affirmed. Sanders v. Shoe Show, Inc., 778 So. 2d 820 (Ala. Civ. App. 2000).

- (2) State of Alabama v. Cedric D. Jenkins, CC-1998-1900

The Defendant was charged with unlawful possession of marijuana in the first degree. The Defendant filed a motion to suppress. I denied the motion to suppress. The Defendant appealed my ruling, and I was affirmed. I have attached the memorandum opinion from the Alabama Court of Criminal Appeals.

- (3) City of Northport v. Walter Oliver Sanders, CC-1996-758

The Defendant in this case was charged with DUI. The police department received an anonymous call from a citizen that described a vehicle with a certain tag number that was being driven by an intoxicated driver. A

police officer located the vehicle, confirmed the tag, and then stopped the vehicle. After having the driver perform various field tests, he was arrested. The Defendant filed a motion to suppress. I denied the motion to suppress. The Defendant did not appeal the ruling.

- (4) State of Alabama v. Derrick D. Collins, CC-1999-260

The Defendant was charged with unlawful possession of marijuana in the first degree. The Defendant filed a motion to suppress. I denied the motion to suppress.

- (5) State of Alabama v. Earl Lee Barnes, CC-2000-71

The Defendant was charged with unlawful possession of a controlled substance. The Defendant filed a motion to suppress. I entered an order suppressing the evidence on the record rather than by written order. The State did not appeal.

- (6) State of Alabama v. Joe Lewis Price, CC-2000-790

The Defendant was charged with unlawful possession of a controlled substance. The Defendant filed a motion to suppress. I denied the motion to suppress.

- (7) State of Alabama v. Derrick D. Williams, CC-2000-1413

The Defendant was charged with unlawful possession of marijuana in the first degree. The Defendant filed a motion to suppress. I denied the motion to suppress.

- (8) State of Alabama v. Elbert Ellis Sessions, CC-2000-1562

The Defendant was charged with receiving stolen property in the first degree. The

Defendant filed a motion to suppress. I denied the motion to suppress.

- (9) State of Alabama v. Deboris M. Thomas, CC-2001-768

The Defendant was charged with discharging a firearm into an occupied dwelling. The defendant claimed, as part of his defense, that his prosecution was a violation of the protection against double jeopardy afforded by the Fifth Amendment to the United States Constitution. The Defendant had, previous to his prosecution, pled guilty to the offense of reckless endangerment in Tuscaloosa Municipal Court. I ruled that his prosecution did not violate the protection against double jeopardy afforded by the Fifth Amendment to the United States Constitution. The Defendant appealed the case, and I was affirmed. I have attached a copy of the memorandum opinion of the Alabama Court of Criminal Appeals.

- (10) State of Alabama v. Darrien Dewayne Madison, CC-1999-1300

The Defendant was charged with unlawful distribution of a controlled substance. The Defendant, as part of his defense, sought to obtain the personnel records of the police officer who arrested him. The Defendant asserted various grounds including constitutional grounds for being allowed to review the officer's file. I denied the motion. The Defendant appealed the ruling, and I was affirmed. I have attached a copy of the memorandum opinion of the Alabama Court of Criminal Appeals.

- (11) State of Alabama v. Cerron R. Colley, CC-2000-1185

The Defendant was convicted of trafficking in cannabis. As part of his defense, the Defendant made a motion to suppress certain evidence seized at the time of his arrest. I denied the motion. The Defendant appealed

the ruling, and I was affirmed. I have attached a copy of the memorandum opinion of the Alabama Court of Criminal Appeals.

- (12) State of Alabama v. Mario G. Centobie, CC-1999-1225

The Defendant was charged with the attempted murder of a police officer in Tuscaloosa County. In addition, he was charged with burglary and theft. The Defendant was also convicted of capital murder when he left Tuscaloosa County and killed a police officer in another county. As part of his defense, the Defendant argued that the admission of evidence of other alleged crimes in other areas violated various provisions of law of the State of Alabama and the Constitution. I allowed the evidence to be admitted in the trial. The Defendant was convicted, and he appealed my ruling. I was affirmed. I have attached a copy of the memorandum opinion of the Alabama Court of Criminal Appeals.

- (13) State of Alabama v. Dee Cee Skinner, CC-94-1024

The Defendant was charged with attempted distribution of a controlled substance. As part of his defense, the Defendant argued that his sentence should not have been enhanced citing Apprendi v. New Jersey, 530 U.S. 466 (2000). I was affirmed. I have attached a copy of the memorandum opinion of the Alabama Court of Criminal Appeals.

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.

None

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;

I was a law clerk for Circuit Judge Paul S. Conger from May 1984 through October 1984. Judge Conger was a Circuit Court Judge in the State of Alabama, Sixth Judicial Circuit.

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

I practiced alone on two occasions:

10/1996 through 01/1999
2121 14th Street
Tuscaloosa, Alabama 35401

01/1990 through 09/1990
2501 6th Street
Tuscaloosa, Alabama 35401

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;

Part-time City Prosecutor
Town of West Blocton
West Blocton, Alabama 35184
Approx. 10/1984 through 5/1985

Attorney
David B. Ellis
Attorneys at Law
610 Lurleen Wallace Blvd. N.
Tuscaloosa, Alabama 35401
10/1984 through 12/1984

Attorney
Prince & McGuire, P.C.
Attorneys at Law
2501 6th Street
Tuscaloosa, Alabama 35401
1/1985 through 5/1985

Attorney, Shareholder and Vice-President
 Prince, McGuire & Coogler, P.C.
 Attorneys at Law
 2501 6th Street
 Tuscaloosa, Alabama 35401
 5/1985 through 8/1989

Attorney, Shareholder and Vice-President
 Prince, Coogler, Turner & Poole, P.C.
 Attorneys at Law
 2501 6th Street
 Tuscaloosa, Alabama 35401
 8/1989 through 1/1990

Attorney, Shareholder and President
 L. Scott Coogler, P.C.
 Attorney at Law
 2501 6th Street
 Tuscaloosa, Alabama 35401
 1/1990 through 9/1990

Attorney, Shareholder and President
 Coogler, Copeland, & Lisenby, P.C.
 Attorneys at Law
 2209 9th Street
 Tuscaloosa, Alabama 35401
 10/1990 through 09/1991

Attorney, Shareholder and President
 Coogler & Copeland, P.C.
 Attorneys at Law
 2121 14th Street
 Tuscaloosa, Alabama 34501
 10/1991 through 10/1996

Attorney, Shareholder and President
 L. Scott Coogler, P.C.
 Attorneys at Law
 2121 14th Street
 Tuscaloosa, Alabama 35401
 10/1996 through 1/1999

Circuit Court Judge
 State of Alabama
 Sixth Judicial Circuit
 714 Greensboro Avenue
 Tuscaloosa, Alabama 35401
 1/1999 through 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?

My law practice was of a general nature involving extensive litigation. I represented both individuals and businesses. While most of my practice involved trial work in criminal and civil courts, I also had a significant practice in business law.

In early 1996, I was retained to represent a group of doctors in forming a company to own and operate cancer treatment facilities. This resulted in a change to my practice. From that point, I spent at least half of all my time working with that one client and its various entities. I became its outside general counsel. The company grew to have several facilities providing cancer care to patients outside, as well as throughout the State of Alabama.

I was elected to the position of Circuit Court Judge in November of 1998. As a Circuit Judge, I preside over both major civil and felony criminal cases. I have handled over 1,600 civil cases and over 2,500 felony criminal cases since becoming a judge. I hold seventeen jury weeks per year and average trying two to three jury cases per jury week. I am in my fifth year as a Circuit Judge and have tried most every case imaginable from medical malpractice cases to murder and drug trafficking cases.

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

As an attorney, my typical client was an individual with a legal dilemma or a small business owner in need of legal services. I did not specialize except possibly in general 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.

I frequently appeared in court for various motions . I was in court for trials often, but I would not say frequently. I was in depositions very frequently.

2. What percentage of these appearances was in:
- (a) federal courts;
 - 2% (estimated)
 - (b) state courts of record;
 - 88% (estimated)
 - (c) other courts.
 - 10% (estimated)
3. What percentage of your litigation was:
- (a) civil;
 - 80% (estimated)
 - (b) criminal.
 - 20% (estimated)
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.
- Sole counsel, 35 (estimated)
 - Chief counsel, 10 (estimated)
 - Associate counsel, 20 (estimated)
5. What percentage of these trials was:

- (a) jury;
40% (estimated)
- (b) non-jury.
60% (estimated)

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) State of Alabama v. Paul Anthony Johnson

In the Circuit Court of Pickens County, Case Number CC-1985-001

This case was before the Honorable Clatus Junkin, now retired (205-932-4300). The State was represented by the Honorable Pep Johnston, (now retired). The Honorable Robert F. Prince served as co-counsel (205-345-1234; The Prince-Patterson Law Firm, 2501 6th Street, Tuscaloosa, Alabama 35401).

In this case the Defendant was charged with the murder of his wife in a rural area of Pickens County, Alabama. The Defendant was white but the prosecution made significant use of evidence indicating that he had dated in the past and, in fact, had a child by a black woman who lived in Mississippi. There were many issues involved in this case. It was a case comprised of circumstantial evidence. The State attempted to tie the Defendant to the murder with trace evidence consisting of metal fragments that the State argued had been left by the Defendant due to his employment as a metal fabricator.

After being tried one time, the Alabama Court of Criminal Appeals reversed the conviction of the Defendant and the case was tried again. Each trial lasted two weeks. It was discovered in the second trial that the investigators for the State had crucial evidence concerning tire tracks on the grass the morning of the murder. This evidence had been kept from the Defense despite appropriate requests. This evidence was clearly exculpatory as the tracks did not match any vehicle that was available to the Defendant. The Defendant was again convicted in the Circuit Court.

The Alabama Court of Criminal Appeals ultimately agreed with our position that there was insufficient evidence to try the Defendant and reversed and rendered the case.

Johnson v. State of Alabama, 594 So. 2d 1245 (Ala. Crim. App. 1991)

I did the majority, if not all, the research. I also located and prepared the expert witnesses utilized in the defense. In the two trials, I examined several of the witnesses and argued many of the motions.

(2) Sherry Hamner v. Cletis D. Hand, et al.

In the Circuit Court of Tuscaloosa County, Case Number CV-1984-792

This case was before the Honorable Joseph A. Colquitt (205-348-1145). The Honorable Robert F. Prince was co-counsel. He is an attorney at The Prince-Patterson Law Firm, 2501 6th Street, Tuscaloosa, Alabama (205-345-1234). The Honorable Robert B. Harwood, now Associate Justice on the Alabama Supreme Court at 300 Dexter Avenue, Montgomery, Alabama 36104-3741, 334-242-4593, represented Dr. Steve Hill. The Honorable J. Russell Gibson, III represented Dr. Cletis D. Hand. Mr. Gibson can be reached at Phelps, Jenkins, Gibson & Fowler, L.L.P., 1201 Greensboro Avenue, Tuscaloosa, Alabama 35401, 205-345-5100. The Honorable J. Gusty Yearout, located at Yearout, Myers & Traylor, P.C., 800 Shades Creek Parkway, Suite 500 in Birmingham, Alabama 35209, 205-414-8160, represented West Alabama General Hospital, Inc.

This was a medical malpractice case. In this case, it was alleged that the Defendants had committed malpractice in surgery performed on the Plaintiff that left her injured and disfigured. There were many legal issues in this case, as in all medical malpractice cases. In addition to the typical issues of liability, the defendants had pled consent, but we were

successful in proving a failure of disclosure in the release process. The consent was ultimately found to be ineffective. The case was settled in the middle of the trial, after the Defendants each discovered that the device they and their experts had testified was utilized in the surgery was not utilized, but was instead created after the surgery.

I conducted many of the depositions, argued most, if not all, the motions before the court and examined various witnesses in the trial.

(3) Cecil Causey, et al., v. Jim Walter Resources, Inc., et al.

In the Circuit Court of Tuscaloosa County, Case Number CV-1988-309

This case was before the Honorable Joseph A. Colquitt, (205-348-1145). Serving as co-counsel were the Honorable Robert F. Prince (The Prince-Patterson Law Firm, 2501 6th Street, Tuscaloosa, Alabama 35401, 205-345-1234) and the Honorable Cephas Knox McLaney, III, McLaney & Associates, 509 South Court Street, Montgomery, Alabama 36103, 334-265-1282). Jim Walter Resources, Inc. was represented by the Honorable Jarred Otis Taylor, III (Maynard, Cooper & Gale, P.C., 1901 6th Avenue North, Birmingham, Alabama 35203, 205-254-1061).

In this case, the Plaintiffs were the residents of a small community in North East Tuscaloosa County. The Defendant had built and operated a coal drying and stacking operation beside the homes of the Plaintiffs. The coal dust and pollution from the facility covered the homes, clothes, and other items of the Plaintiffs causing them many difficulties.

In the case, a lot of depositions were taken, and many experts on both sides were prepared and examined. The case was tried, and a verdict rendered for the Plaintiffs. The Defendant, Jim Walter Resources, went into bankruptcy (not because of this case) immediately after the verdict. I think the case was ultimately settled, but I had left the firm before that point. There were many legal issues dealing with trespass, nuisance, and the proof and proximate cause of damages.

I conducted most of the depositions, prepared, and examined most of the experts and participated extensively in the trial, including making arguments and examining witnesses.

(4) Mary Frances Sabich v. Deborah R. Coggins, et al.

In the United States District Court for the Northern District of Alabama, Western Division, Case Number CV-87-G-0343-W

This case was tried before the Honorable J. Foy Guin, United States District Judge (205-278-1830). The Honorable Robert F. Prince served as co-counsel. He can be reached at The Prince-Patterson Law Firm, 2501 6th Street, Tuscaloosa, Alabama 35401, 205-345-1234. The Defendants were represented by the Honorable Robert B. Harwood, now Associate Justice of the Alabama Supreme Court, at 300 Dexter Avenue, Montgomery, Alabama 36104-3741, (334-242-4593).

In his case, the Plaintiff claimed that the Defendant failed to diagnose cancer of the brain. The Plaintiff, a doctor herself, contended that the failure to diagnose prevented her from having any chance to obtain treatment and a chance of a cure. The Plaintiff alleged that she had been treated by the Defendants on a regular basis when sufficient symptoms were present. When the cancer was ultimately discovered, it was too late for any significant treatment.

A verdict was returned in the favor of the Defendants. The Defendants argued that it would not have mattered if she had been diagnosed earlier because of the type cancer. There were many legal issues of liability, as well as legal issues concerning the question of damages.

In the trial, I participated in arguing motions. Also, I examined a few of the witnesses, although I do not recall which ones.

(5) W.C. Wiggins v. International Harvester, et al.

In the Circuit Court of Tuscaloosa County, Alabama, Case Number CC-1987-19

This case was before the Honorable T. Steve Wilson (205-349-3870). The Defendant, Martin Truck & Tractor Company, Inc., was represented by the Honorable John A. Russell, III (202 Broad Street, Aliceville, Alabama 35442, 205-373-8714). The Defendant, International Harvester, was represented by the Honorable D. Alan Thomas of Huie, Fernambucg & Stewart, L.L.P., 417 20th Street North, 8th Floor, Birmingham, Alabama 35203, 205-251-1193.

In this case the Plaintiff, a farmer in Tuscaloosa County, alleged that the Cyclo planter he had purchased from the Defendants was defective. The Defendants had attempted on many occasions to repair the equipment, but were unsuccessful. The

plaintiff alleged that the defective equipment resulted in his crops being under-planted and planted late. Various experts were retained and examined on issues dealing with the operation of the equipment and the estimation and calculation of damages to crops as a result of late planting. I represented the Plaintiff in the various summary judgment motions that were filed and in all other proceedings including depositions. The case was settled right before trial in the plaintiff's favor.

(6) James P. Johnson, et al. v. Klumb Company, Inc., et al.

In the Circuit Court of Tuscaloosa County, Alabama, Case Number CV-86-792

This case was before the Honorable John M. Karrh, now retired (205-349-2009). The Defendants were represented by the Honorable Robert B. Harwood, now Associate Justice of the Alabama Supreme Court (300 Dexter Avenue, Montgomery, Alabama 36104-3741, 334-242-4593) and others, including the Honorable R. Stanley Morris (1232 Blue Ridge Boulevard, Birmingham, Alabama 35226, 205-823-8916) and the Honorable Christopher L. McIlwain (Hubbard, Smith, McIlwain, Brakefield & Browder, 808 Lurleen Wallace Boulevard North, Tuscaloosa Alabama, 205-345-6789).

In this case, the plaintiffs were residents in a neighborhood that was adjacent to property upon which the Defendants set up and operated a bark processing and storage facility. It was alleged that the bark, because of the method in which it was stacked and stored, burned spontaneously. On many occasions, the smoke was so bad in the neighborhood that the fire department was called and occasionally had to fight fires at the Klumb facility. It was further alleged that the burning was such that it generated not only smoke and ash that covered the neighbors homes, but also resulted in the release of extremely harmful carcinogens.

I performed most of the legal work on the case until I left the firm. I took or defended the majority of the depositions, as well as defended various motions for summary judgement. This case was extremely complicated and involved several legal issues including trespass, nuisance, and proximate cause of damages.

After I left the firm, the case was tried and then settled. The Defendant moved its operation to a more appropriate site and now utilizes many of the storage methods we argued would prevent the burning.

(7) David E. Gerald v. Townsend Ford, Inc.

In the Circuit Court of Tuscaloosa County, Alabama, Case Number CV-1990-27

This case was before the Honorable Joseph A. Colquitt, now retired (205-348-7865). The Honorable Silas G. Cross, Jr. of Cross, Poole & Fischer, L.L.C., 1416 Greensboro Avenue, Tuscaloosa, Alabama 35401, 205-391-9932, was co-counsel. The Defendant was represented by the Honorable William J. Donald, III of Donald, Randall & Donald, 2330 University Boulevard, 9th Floor, Tuscaloosa, Alabama 35403, 205-758-2585.

In this case, the Plaintiff alleged that he had purchased an automobile that was represented to him as having been utilized and driven by an executive of the Ford Motor Company. The Plaintiff discovered after having some problems with the car that it had instead been leased to a rental car company and used as a normal rental car. The jury returned a verdict in favor of the plaintiff. There were issues concerning the elements of liability in a fraud case, as well as damages.

I handled most all of the depositions, as well as most of the witnesses and legal arguments in this case.

(8) William O. Pace vs. Titus Judah, Case Number CV-89-181 D
Durward Hunt, et al., vs. Titus Judah Realty, Inc., et al.,
Case Number CV-89-182 B

These cases were before the Honorable John B. Bush in the Autauga County Circuit Court (334-567-1148).

I represented the Defendants in these cases. The Plaintiffs were represented by the Honorable George P. Walthall, Jr. at 125 West Main Street, Prattville, Alabama 36067, 205-365-2255.

The Defendants were land developers who built a neighborhood adjacent to property owned by the Plaintiffs. The Plaintiffs alleged that the Defendants had trespassed and continued to trespass upon their land by the runoff of water, soil and other materials from the development. The Plaintiffs sought various relief, including money damages.

After several depositions, summary judgment was granted in favor of the Defendants. I handled all of the representation of the Defendants.

(9) Signa Mining, Inc., et al., vs. Tuscaloosa County Commission, et al.

In the United States District Court for the Northern District of Alabama, Western Division, Case Number CV-88-G-1468-W

This case was tried before the Honorable J. Foy Guin, United States District Judge (205-278-1830). The Tuscaloosa County Commission was represented by the Honorable Michael D. Smith of Hubbard, Smith, McIlwain, Brakefield & Browder, 808 Lurleen Wallace Boulevard North, Tuscaloosa, Alabama 35401, 205-345-6789.

In this case I represented the Plaintiff, a coal company that had the right to mine coal from a particular parcel of property in Tuscaloosa County. The Tuscaloosa County Commission decided that the company should not be allowed to mine the coal, and to prevent the mining passed a weight restriction on the roads leading to and from the property. The restriction had the effect of prohibiting all but passenger cars from utilizing the roads. When the county refused to rescind its action, a suit was filed in the United States District Court for the Northern District of Alabama, Western Division. The Plaintiff prevailed in a motion for summary judgment, and the weight restriction was set aside.

I handled all the representation of Signa Mining, Inc., in the case.

The Defendants subsequently appealed the case to the Eleventh Circuit, and Judge Guin was affirmed.

(10) Bobby Park Truck and Equipment, Inc. v. Jesco, Inc., et al.

In the Tuscaloosa County Circuit Court, Case Number CV-1995-944

This case was before the Honorable Gay M. Lake, Circuit Judge, now retired (205-553-8437). I represented the Plaintiffs. The Defendants were represented by the Honorable Wilbor J. Hust, Jr. of Zeanah, Hust, Summerford, Davis & Williamson, L.L.C., 2330 University Boulevard, 7th Floor, Tuscaloosa, Alabama 35401, 205-349-1383, and the Honorable Randall Edwards of Smith, Curry & Hancock, 233 Peachtree Street Northeast, 2600 Harris Tower/Peachtree Center, Atlanta, Georgia 30303-1530, 404-521-3800.

In this case, the Plaintiff, a company I represented on a frequent basis, contracted with the Defendants to build a large

truck and equipment retail and repair facility in Tuscaloosa County. The Plaintiff alleged that the work was deficient and that the Defendants had breached their agreements. After numerous depositions and some motions, the case was settled.

I handled all of the representation of the Plaintiff.

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.)

In early 1996, I was retained to represent a group of doctors in forming a company to own and operate cancer treatment facilities. I became its outside general counsel. The company grew to have several facilities providing cancer care to patients outside, as well as throughout the State of Alabama. As its attorney, I conducted or supervised all corporate work. In representing this company, I completed the negotiation and drafting of many contracts. I also spent a significant amount of time advising the company on employment issues as well as medical and non-medical liability issues.

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 do not have an interest in any law firm. I am not owed anything from anyone for my previous interest in any law firm or services with any law firm. I do not have any stock options of any type with any corporation.

I do not know of any work or contract that remains unpaid except the note receivable from PTS, Inc., described in the attachments to the Financial Statement. The payments on the note receivable are set forth in the note. PTS, Inc., owns one or more newspapers. The note is one of many notes that make up a financing package utilized by PTS, Inc., in its purchase of one or more newspapers. The terms of the note include a fixed interest amount.

I have a deferred compensation account with the State of Alabama. This account is described in the attachments to the Financial Statement. I expect to follow the rules of the account and the law with respect to that account. I have no control over the investments in that account and do not know when I will draw anything out of the account.

With regard to my real estate investments, I expect to receive the value of the investment when it is sold. I expect to receive my share of the rents after expenses, as long as I remain an owner of the investment. I do not know when I will sell the investments.

I own some publicly-traded stocks, all of which are listed in my attached Financial Disclosure Report. I expect some of those stocks to continue to pay dividends and I expect to receive the value of the investment when I sell the stock. I do not know when I will sell the stock or receive dividends.

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.

As a Circuit Judge in the State of Alabama, I have exercised restraint in becoming involved in any matters which could result in litigation or create a conflict of interest. I would continue that practice. In addition, I have not practiced as an attorney since the end of 1998. This would prevent most, if not all, potential conflicts of interest. In the event I have a conflict of interest, I would recuse myself from the case.

Because of my service as a Circuit Judge I do not anticipate any areas that are likely to present potential conflicts-of-interest during my initial service in the position to which I have been nominated. However, I will follow the guidelines of the Code of Judicial Conduct.

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.

The University of Alabama, School of Law, has requested that I continue as an adjunct professor (one evening per week) but that would depend on my schedule and work load should I be appointed.

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 Statement of Net Worth.

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 was the candidate in my successful campaign to be elected Circuit Judge in November, 1998.

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 accepted several cases through the years on a pro bono basis. Some of these cases were at the request of a judge and some resulted from individuals who contacted my office. In addition, I participated in the Alabama State Bar Volunteer Lawyers Assistance Program representing indigent clients in civil cases.

Most of the pro bono cases were civil in nature mainly dealing with domestic relation issues.

I do not recall the amount of time spent with each client but I do know that I spent many hours in pro bono service.

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?

I do not now nor have I ever belonged to an organization that invidiously discriminates on the basis of race, sex, or religion.

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).

There is not a selection commission in my jurisdiction to recommend candidates for nomination to the federal courts. Senator Richard Shelby asked me to prepare a resume for him and then asked me to come to Washington to meet with himself and Senator Sessions. I met with Senator Shelby and then Senator Sessions. I was then asked to return to Washington in order to meet with members of the White House Staff. I returned and met with them. I have since that point completed all the forms and provided all the information requested.

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 principle of separation of powers is very important. The role of the judicial branch is to impartially apply the Constitution, laws enacted by the legislative branch and implemented by the executive branch, and any Supreme Court or circuit court decisions that apply to the issue. Judges must fairly apply the law to the case or controversy with which it is properly presented.

If a judge were to utilize his position to implement his personal views on policy matters, he would be substituting his own views for those of the elected representatives of the people. If this were to occur, individuals and entities, who are expected to comply with the law would have no way of knowing what is required of them. Adherence to precedent and the principle of stare decisis are important because they provide stability to our jurisprudence.