I. BIOGRAPHICAL INFORMATION (PUBLIC)

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

Lonny Ray Suko. No other names used.

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

Residence: Yakima, WA
Office: 25 S. Third Street, Yakima, WA, 98901.

3. Date and place of birth.

10-12-43 at Spokane, WA.

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 Marcia Anne Suko whose maiden name is Marcia Anne Michaelsen. My wife is self-employed part-time as a Guardian Ad Litem and home study investigator in divorce cases where child custody and visitation issues are being litigated in state court.

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

College of Law at the University of Idaho, Moscow, Idaho; 9/65 through 6/68; Juris Doctor received 6/68.

Washington State University, Pullman, Washington, 9/61 through 6/65; Bachelor of Arts (With Distinction), received 6/65.

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.

U. S. Courts for the Eastern District of Washington, 25 S. Third Street, Yakima, WA, 98901, full-time U.S. Magistrate Judge, 8/1/95-present.

Lyon Law Offices, 222 North Third Street, Yakima, WA, 98901, associate/partner/shareholder, 9/69-7/95.

U.S. Courts for the Eastern District of Washington at Yakima, 25 S. Third Street, Yakima WA, 98901, part-time U.S. Magistrate Judge, 2/71-9/91.

U.S. Courts for the Eastern District of Washington at Spokane, 920 W. Riverside, Spokane, WA, 99210, law clerk to Federal District Judge, 9/68-8/69.

Washington State Department of Labor and Industries, Office of the Attorney General, General Administration Building, 7273 Linderson Way SW, Olympia, WA, 98504, summer intern, 6/67-8/67.

Whitman Mission National Historic Site, 328 Whitman Mission Road, Walla Walla, WA, 99362, park ranger, 6/66-9/66.

Washington State Association of County Commissioners, 206 Tenth Avenue S.E., Olympia, WA, 98501, summer intern, 6/65-9/65.

Washington Education Foundation (non-profit organization dedicated to scholarships for underprivileged children), trustee, approx. 9/01-present. (non-compensated)

Washington State University Foundation (non-profit corporation which raises funds for educational purposes at Washington State University), approx. 9/96 through 9/01. (non-compensated)

First Presbyterian Church Foundation (non-profit), co-trustee, approx. 9/01-present. (non-compensated)

Mabel Swan Manor (non-profit), member of board of directors, approx. 1974-1976.

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.

N/A. Have not served in U.S. Military.

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

Honor Society Memberships: Phi Beta Kappa; Phi Kappa Phi; Phi Eta Sigma (freshman academics); Pi Sigma Alpha (Political Science); and Phi Alpha Delta (law).

Scholarships: Metta Cordes scholarship to assist freshman year of attendance at Washington State University; Alumni Educational Opportunity Awards received from Washington State University for each of undergraduate years thereafter through June 1965.

Law School Honors: Moot Court winner picked as finalist who argued before Idaho Supreme Court; Am Jur award for having highest grades in trusts; elected as member of Honor Court (student group assigned to decide any violations of law school honor code).

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.

National Council of U.S. Magistrate Judges (also known as Federal Magistrate Judges Association) 1995-present.

Magistrate Judges Executive Board, 9th Circuit Court of Appeals; 2000-present.

Washington State Bar Association, 1968-present.

Yakima County Bar Association, served as secretary 1970-1971 as well as on Law Library Board of Trustees from approximately 1986 until 1994.

Federal Bar Association, Eastern District of Washington; 1970's-present.

Washington Council of School Attorneys, (approximately 1974-1994) elected member of Board of Directors for 3 year term in approximately mid 1980's; presenter at selected school law seminars in 1970's and 1980's.

American Bar Association; 1968-present.

John Gavin Inns of Court, founding board member in 1991.

*Washington State Trial Lawyer's Association.

*Association of Trial Lawyers of America.

(*Membership discontinued approximately mid 1995.)

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.

None of the organizations to which I belong have as their primary purpose the lobbying of public bodies. However, I believe Washington State University has a lobbyist at the state level who presumably has occasion from time to time to represent the interests of those university affiliated groups hereafter listed. The organizations to which I belong are as follows:

Washington Education Foundation (non-profit) board member, 2001-present;

Washington State University Foundation (non-profit organization which raises scholarships for underprivileged), board member, 1996-2002;

Washington State University Alumni Association (non-profit), life member;

Advisory Board to College of Liberal Arts at Washington State University, 2001-present;

Yakima First Presbyterian Church (1972 -); member of Board of Session (governing body), approx. 1973-1976;

Yakima First Presbyterian Church Foundation, trustee, 2001-present;

Yakima Country Club (social membership only);

Yakima Kiwanis;

Yakima YMCA.

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.

Washington State Bar Association, admitted 10/22/68;
U.S. District Court, Eastern District of Washington, admitted 9/26/69;
U.S. District Court, Western District of Washington, admitted 8/25/78;
U.S. Court of Appeals, 9th Circuit, admitted 10/13/78;

No lapses of membership.

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.

I have not published any titles, books, articles, reports, or other material for general sale or distribution to the public. However, an article prepared by me which summarizes the conclusions of a presentation made to the Chief District Judges of the 9th Circuit Court of Appeals in August 2001, is available as part of the Magistrate Judges' Executive

Board Conference Newsletter for Winter, 2001, and can be accessed at the 9th Circuit Internet site. Four (4) copies of the article are enclosed.

I have also prepared seminar publications for limited use by participants on approximately 8-10 occasions over the years. Insofar as known, those materials are no longer in existence and cannot be retrieved. The title to two of the seminar presentations include: School Personnel Management law, Part IV: The Superintendent as an Employee, including the Superintendent's Contract, Benefits, Evaluation, Nonrenewal, and Separation Agreements - Washington State School Law Seminar held at University of Washington School of Law in July, 1987, and Fourteenth Amendment Due Process Rights - School Law Academy held at Yakima, Washington, in April, 1992.

I have not delivered any speeches in written or videotaped format and am unaware of any available press reports covering presentations which I may have made at seminars or elsewhere.

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

My last physical examination was September 18, 2002, supplemented by an eye exam and hearing exam on March 12, 2003. I am in excellent health.

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.

U.S. Magistrate Judge for the Eastern District of Washington, full-time, 8/1/95 - current, appointed; authorized to exercise all duties permitted to be performed by U.S. Magistrate Judges.

U.S. Magistrate Judge for the Eastern District of Washington, part-time, 2/71 - 9/91, appointed; authorized to perform all duties permitted to be performed by U.S. Magistrate Judges.

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:

Snelling v. Riveland, 983 F. Supp. 930 (E.D.Wash, Sept. 10, 1997), *aff'd* 165 F.3d 917 (9th Cir. 1998). Inmate sued prison officials for rejection of letters and magazines under prison regulation rejecting sexually explicit materials mailed to inmates, and claimed First Amendment violations. Prison defendants brought motion for summary judgment. This court held that there was rational connection between prohibition and legitimate penological concerns of safety and rehabilitation and regulation was permissible. Motion for summary judgment granted, inmate's First Amendment claim dismissed with prejudice.

Graves v. Burlington Northern R.R., 971 F. Supp. 1360 (E.D.Wash., July 8, 1997). Railroad employee who was injured as result of collision with uninsured motorist brought Federal Employers' Liability Act (FELA) action against railroad, alleging that railroad caused his damages by negligently failing to obtain uninsured and underinsured motorist insurance coverage for its company vehicles. Railroad moved for summary judgment. I concluded that railroad had no duty to provide uninsured or underinsured motorist insurance, and absent such duty, there was no negligence, and railroad was not liable under FELA.

Allen v. Wood, 970 F. Supp. 824 (E.D.Wash, June 9, 1997). Inmate brought civil rights action against prison officials, alleging that their rejection of some of his mail violated his constitutional rights. On officials' motion for summary judgment, I found that: (1) rejection of sexually explicit materials did not violate inmate's First Amendment rights;

(2) rejection of such materials was not cruel and unusual punishment in violation of the Eighth Amendment; (3) rejection did not violate due process; and (4) rejection did not violate equal protection.

Molesky v. Walter, 931 F. Supp. 1506 (E.D.Wash., June 7, 1996), *aff'd* 129 F.3d 126 (9th Cir. 1997). Inmate brought §§ 1983 action against prison officials alleging he was compelled to undergo a psychological evaluation in violation of his constitutional rights. Prison officials moved for summary judgment. My rulings: (1) undergoing psychological examination did not involve a restraint which exceeded inmate's sentence in such an unexpected fashion as to give rise to due process violations; (2) because evaluation was not an atypical or significant hardship, it could not amount to cruel or unusual punishment; (3) assuming inmate had constitutional right to privacy, prison officials justifiably curtailed exercise of inmate's rights by requiring him to undergo mental health evaluation which promoted legitimate penological objectives; (4) requiring inmate to undergo psychological evaluation did not violate his equal protection rights; (5) compelling inmate to submit to mental health evaluation did not violate his right against self-incrimination; and (6) inmate was not entitled to assistance of counsel during evaluation.

Schenck v. Edwards, 921 F. Supp. 679 (E.D.Wash., Feb. 1, 1996), *aff'd* 133 F.3d 929 (9th Cir.). Inmate brought §§ 1983 civil rights suit against state penitentiary officials in connection with discipline imposed for possession of another prisoner's draft legal pleadings and alleged that search of cell was illegal. Defendants moved for summary judgment and to strike. Holding: (1) disciplining inmate for mailing draft legal pleadings to another inmate did not violate the First Amendment; (2) suspended sentence imposed by prison disciplinary board did not result in loss of protected liberty interest required for due process violation; and (3) search of cell and inspecting legal documents outside inmate's presence was constitutional and could not be basis of civil rights claim. Summary judgment granted.

Michaels v. U.S., 2001 WL 758633 (E.D.Wash., May 10, 2001). In an action for wrongful levy, pursuant to 26 U.S.C. §§ 7426(a)(1), I found that plaintiff could claim no interest

in the real property at issue as the attempted transfers of interests were void.

Crofton v. Roe, No. CY-95-3142-LRS (E.D.Wash. Dec. 17, 1996), *aff'd* 170 F.3d 957 (9th Cir. 1999). State prisoner brought action challenging prison regulation that prohibited receipt by a prisoner of any book, magazine, or other publication, unless prisoner ordered publication from publisher and paid for it out of prisoner's own prison account. The decision of the court enjoined enforcement of regulation, but denied prisoner's claim for damages and held that defendant prison officials would be entitled to qualified immunity. State appealed, and prisoner cross-appealed. The Court of Appeals, Schroeder, Circuit Judge, affirmed the district court and held that: (1) blanket prohibition on gift publications violated First Amendment; (2) temporary delay in delivery of publications did not violate First Amendment; (3) prisoner was not entitled to continuance; and (4) prisoner failed to make showing of contempt.

Roeber v. Dowty Aerospace Yakima, No. CY 99-3032-LRS (E.D.Wash. Sept. 15, 2000), *aff'd* 21 Fed.Appx. 649 (9th Cir. 2001). [opinion attached] Employee brought action against former employer alleging violations of the Americans with Disabilities Act (ADA) and the Washington Law Against Discrimination. Summary judgment was granted in favor of employer, and employee appealed. The Court of Appeals affirmed the district court and held that employee was not "disabled" within meaning of the ADA or the Washington Law Against Discrimination.

Cootes v. *United States*, No. CY-00-3040-LRS (E.D.Wash. June 21, 2001). [opinion attached] Enrolled member of the Confederated Tribes and Bands of the Yakama Nation, argued that Defendants (Army Corp of Engineers) did not have authority, under 36 C.F.R. § 327, to prohibit or restrict Plaintiff's right to fish and erect a camp at Cottonwood Cove because of established treaty fishing right. Relying on the canons of judicial restraint, this court denied Plaintiff's Motion for Summary Judgment, recognizing that genuine issues of material fact remained.

Florom v. Barnhart, No. CY-01-3026-LRS (E.D.Wash. Apr. 15, 2002). [opinion attached] Claimant appealed Commissioner of Social Security's decision denying her benefits because she had the residual functional capacity to return to her previous work as a cashier. Decision of the Administrative Law Judge ("ALJ") upheld, finding that the decision was based upon proper legal standards and supported by substantial evidence in the record. Plaintiff was found properly capable of performing her past relevant work and therefore the ALJ was not required to call a vocational expert.

(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:

Holm v. Washington State Penitentiary, CY-97-3064-LRS (E.D.Wash. March 8, 1999), *affirmed and partially vacated at* 19 Fed.Appx. 704 (9th Cir. 2001) (unpublished decision). Former employee of state penitentiary sued the penitentiary under the Americans With Disabilities Act (ADA). Summary judgment granted to the penitentiary. Employee appealed. The Court of Appeals affirmed holding that (1) damages claims were barred by the Eleventh Amendment, and (2) injunctive relief could be sought only against individual defendants. However, the Court vacated that part of the district court's judgment dismissing with prejudice plaintiff's hostile work environment claims, because these claims were not before the court.

Sorenson v. Comm'r of Social Security Admin., No. CY-98-3054 (E.D.Wash. May 12, 1999), *dismissed at* 4 Fed.Appx 335 (9th Cir. 2001) (unpublished decision). Claimant sought review of decision of Commissioner of Social Security denying application for supplemental security income (SSI) benefits. This court granted summary judgment, affirming Commissioner's decision. Claimant appealed. The Court of Appeals dismissed the case because the parties had filed written consent to the magistrate judge's jurisdiction only after the entry of judgment. The Court in effect concluded that the trial court had no jurisdiction at the time the original judgment was entered and that this defect could not be remedied by the later acts of both parties.

Lawson v. Panasuk, No. CY-96-3159-LRS (E.D.Wash. July 18, 2000), *vacated at* 19 F.3d 1332 (9th Cir. 1999) (unpublished decision). Thelbert Lawson, a Washington state prisoner, sued prison officials pursuant to 42 U.S.C. §§ 1983 alleging that prison officials were deliberately indifferent to his serious medical needs when they denied him an eye examination and prescription. Summary Judgment granted for the prison officials. On appeal, the Ninth Circuit Court of Appeals vacated and remanded the case to the district court because the prisoner had been given inadequate *Rand* notice. *See Rand v. Rowland*, 154 F.3d 952, 962 app. "A" (9th Cir.1998) (en banc); *Klingele v. Eikenberry*, 849 F.2d 409, 411 (9th Cir. 1988).

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

While some of the foregoing citations involved issues touching on federal constitutional matters, none of them were precedent setting nor did they change the substantive law applicable to the facts at issue.

Unreported Opinions: (copies provided herewith)

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 served as law clerk to the Hon. Charles L. Powell, Chief Judge, U.S. District Court for the Eastern District of Washington, at Spokane, WA, during the period September, 1968 through August, 1969;

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

I have never practiced alone.

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

9/68-7/95 -- practiced with Lyon Law Firm (P.O. Box 1689, Yakima, WA, 98907-1689) located at 222 N. 3rd St., Yakima, WA, 98901, first as an associate and then later as a partner (1972) and senior shareholder (beginning in approximately 1991). Beginning in approximately 2/71, I was appointed part-time U.S. Magistrate Judge and held that position while practicing full-time with the firm until September of 1991 when the position was discontinued.

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?

From 1969 until 1995 (spent as a practicing attorney in the Lyon Law Firm at Yakima, WA), my practice evolved from the typical duties assigned an associate (personal injury, partnership, corporations, commercial transactions, guardianship, real estate, divorce, minor criminal defense and general litigation law) to a concentration in the areas of civil litigation (both plaintiff and defense personal injury, wrongful death, property damage, breach of contract, and related claims), school, public employment, and agricultural law. Most of the changes referenced by this paragraph had occurred by the mid 1980's.

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

My practice included the broad representation of individuals in tort and contract matters and gradually evolved until approximately 40 percent of my time was spent with the problems of education predominantly in grades K-12 (public contracting, collective bargaining, labor relations, employee discipline, defense of tort claims and related issues). The remainder of my practice continued to focus upon general litigation as well as ongoing legal advice in all aspects of the law. Additionally, near the end of my time as a private practitioner, I was increasingly called upon to serve as a mediator and Special Master. I also had occasion to appear before the U.S. Department of Agriculture in litigation which challenged the Far West Spearmint Marketing Order.

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 was in court 1-2 times a month on civil matters in the capacity of private counsel. While there were times when the frequency varied, no particular patterns were noted other than those created by the type of legal work being performed. These appearances were, of course, in addition to the numerous appearances which I made in court every week as a part-time U.S. Magistrate Judge through the time period ending in September 1991.

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

(a) 15%
(b) 70%
(c) 15%

3. What percentage of your litigation was:
(a) civil; 100%
(b) criminal.

(a) Virtually all of the appearances referenced above were in civil proceedings since my duties as a part-time Magistrate Judge through 1991 precluded my representation of defendants involved in criminal cases in state or federal court.

(b) As noted above, I was in court portions of several days per week on criminal cases as a part-time Magistrate Judge while I was in private practice during the period 1971-1991.

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.

Having been on the Bench full-time for the last eight (8) years, I have assumed that the answer to this question should be limited to cases tried by me as a lawyer rather than a judge. Accordingly, while I have no way of confirming the accuracy of my answer, I estimate that I probably tried to verdict or judgment in courts of record (as a practicing lawyer) approximately 30-40 cases. In actuality, we were preparing for trial most of the time with the end result that the cases usually settled. Because of my general role within the firm, the vast majority of these would have been spent as chief counsel and in most instances, sole counsel, although I did have others assist from time to time. In addition, I tried many cases which were heard before private arbitrators (not included in numbers shown above).

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

I estimate that approximately 20-25% of these trials would have been decided by a jury. This estimate relates solely to the time spent in private practice and predates my going on the Bench as a full-time U.S. Magistrate Judge approximately eight (8) years ago.

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.

Because I have been sitting on the Bench for almost eight (8) years as a full-time Magistrate Judge, I do not have access to the files and case decisions which were concluded at the trial court level without further appeal (most of my practice). Additionally, my former firm ordinarily destroys litigation files which are more than five or six years old unless required to be maintained for other purposes. Of necessity, all of the litigated matters reported in response to this question come solely from those cases which resulted in published or unpublished opinions at the Washington Supreme or Appellate Court levels.

#1 (Medical Negligence):

Vasquez v. Markin, et al., 46 Wn. App. 480, 731 P.2d 510 (1986);

(a) date of representation: 1982-1986;

(b) the name of the court and the name of the judge or judges before whom the case was litigated: Yakima County Superior Court, Washington Court of Appeals, Division III; judge: Hon. Walter A. Stauffacher, retired;

(c) principal counsel for plaintiff/appellant: Lonny R. Suko and co-counsel Warren L. Dewar (137 Buchanan St., San Francisco, CA, 94102; phone 415-626-3412) assisted by James E. Baker (Miracle, Pruzan, Pruzan & Baker, 1000 Second Avenue, Suite 1550, Seattle, WA, 98104; phone 206-624-8830); principal counsel for defendants/respondents: Dan W. Keefe (Keefe, King & Bowman, P.S., 601 W. Main Ave., Suite 1102,

Spokane, WA, 99201; phone 509-624-8988) and David A. Thorner, (Thorner, Kennedy & Gano, P.S., 101 S. 12th Avenue, Yakima, WA, 98902; phone 509-575-1400).

. . .capsule summary of the substance of the case. . .

Forty-three (43) year old plaintiff with below normal hematocrit/hemoglobin taken into non-emergency surgery for dilation and curettement. Breathing slowed and stopped during anesthesia leaving victim blind, strapped to a wheel chair and permanently disabled. Case partially settled against hospital and anesthesiologist but thereafter taken to trial against victim's attending physician who was scheduled to perform surgery. Jury verdict rendered for defendant. Case appealed. Issues involved informed consent, liability, damages, criteria for directed verdict, and other contentions related to admissibility of evidence; trial court verdict affirmed.

. . .the party or parties whom you represented. . .

Vasquez (plaintiff/appellant);

. . .describe in detail the nature of your participation in the litigation and the final disposition of the case. . .

Primary counsel with responsibility for initiation of litigation and responsible, with co-counsel, for trial preparation, discovery, presentation of evidence and final argument through trial court level as well as assistance on appeal.

#2. (Uninsured Motorist Insurance Coverage):

Perala v. First National Insurance Co. of America, 32 Wn. App. 527, 648 P.2d 472 (1982);

(a) date of representation: 1981-1983;

(b) the name of the court and the name of the judge or judges before whom the case was litigated: Yakima County Superior Court; judge: Hon. Carl Loy, retired;

(c) principal counsel for plaintiff/ appellant: Lonny R. Suko, assisted by James E. Baker (Miracle, Pruzan, Pruzan &

Baker, 1000 Second Avenue, Suite 1550, Seattle, WA, 98104; phone 206-624-8830); principal counsel for defendant: Walter G. Meyer (Meyer, Fluegge & Tenney, P.S., 230 S. 2nd St., Yakima, WA, 98902; phone 509-575-8500);

. . .capsule summary of the substance of the case. . .

Insurance carrier denied uninsured motorist coverage to owner of vehicle who was injured while riding as a passenger in his own vehicle. Carrier filed declaratory judgment action claiming that exclusionary language of insurance contract excluded coverage. Trial court ruled that public policy behind uninsured motorist coverage had priority over language of contract and found that coverage was provided. Ruling affirmed on appeal;

. . .the party or parties whom you represented. . .

Paki Perala (plaintiff/appellant);

. . .describe in detail the nature of your participation in the litigation and the final disposition of the case. . .

Argument, preparation, briefing (shared) at trial court and appellate level and ultimate pursuit of case to successful six figure arbitration award following trial before panel of arbitrators. Results of case expanded underinsured motorist law in state of Washington.

#3 (Creditor's Rights):

Central Washington Production Credit Association v. Baker, 11 Wn. App. 17, 521 P.2d 226 (1974);

(a) date of representation: 1973-1974;

(b) the name of the court and the name of the judge or judges before whom the case was litigated: Yakima County Superior Court; judge: Hon. Blaine Hopp, Jr., retired;

(c) principal counsel for respondent: Lonny R. Suko; principal counsel for appellant: Dwight Halstead (deceased);

. . .capsule summary of the substance of the case. . .

Debtor sold cattle on which security interest had been granted in favor of bank lender. Language required written consent before cattle could be sold and disposition of collateral was not authorized. Debtor relied on alleged past practice claiming that lender had knowingly permitted cattle to be sold without application of proceeds and urged the court to find that waiver had occurred. Issues involved meaning of language and whether course of waiver could arguably be shown. Court of Appeal vacated summary judgment and remanded case for further hearing on issue of whether waiver had occurred;

. . .the party or parties whom you represented. . .

Central Washington Production Credit Association (respondent);

. . .describe in detail the nature of your participation in the litigation and the final disposition of the case. . .

Initiation of litigation, briefing and argument at trial court level and on appeal.

#4. (Lien Priorities):

Southwest Production Credit Association v. Seattle First National Bank, 92 Wn.2d 30, 593 P.2d 167 (1979);

(a) date of representation: 1979;

(b) the name of the court and the name of the judge or judges before whom the case was litigated: Washington Supreme Court;

(c) principal counsel for plaintiff: James A. Vander Stoep (Vander Stoep, Remund, Kelly & Blinks, 345 N.W. Pacific Ave., Chehalis, WA, 98532; phone 360-748-9281); principal counsel for defendant: Marvin L. Gray, Jr., (Davis, Wright, Tremaine, LLP, 2600 Century Square, 1501 Fourth Avenue, Seattle, WA, 98101; phone 206-622-3150);

. . .capsule summary of the substance of the case. . .

Declaratory judgment action brought to assert priority of security interest belonging to crop lender (PCA) over inventory lien held by Seattle First National Bank on processed crop. Evidence showed that PCA had consented to sale of product subject to receipt of funds. Supreme Court ruled that lien in favor of lender who loaned money to grow crop had priority;

. . .the party or parties whom you represented. . .

Federal Intermediate Credit Bank of Spokane (friend of court brief);

. . .describe in detail the nature of your participation in the litigation and the final disposition of the case. . .

Friend of court brief (with law firm assistance) and oral argument on appeal.

#5 (Termination of Employment):

McCorkle v. Sunnyside School District, 69 Wn. App. 384, 848 P.2d 1308 (1993);

(a) date of representation: 1992-1993;

(b) the name of the court and the name of the judge or judges before whom the case was litigated: Yakima County Superior Court, Washington Court of Appeals, Division III; judge: Hon. Stephen M. Brown;

(c) principal counsel for appellant: Jacob Rufus (address and phone number unknown); principal counsel for respondent: Lonny R. Suko, assisted by Kevin D. Kilpatrick (710 2nd Ave., Suite 1414, Seattle, WA, 98104; phone 206-684-7757);

. . .capsule summary of the substance of the case. . .

McCorkle had been discharged from his teaching position following an administrative hearing in which the school district had prevailed. McCorkle claimed that earlier similar acts of misconduct which had never resulted in discipline were res judicata and not admissible in pending discharge proceedings. Court of Appeals held in favor of

district, thereby confirming earlier ruling of administrative hearing officer and superior court judge who had heard the appeal at the trial court level;

. . .the party or parties whom you represented. . .

Sunnyside School District (respondent);

. . .describe in detail the nature of your participation in the litigation and the final disposition of the case. . .

Preparation for, and presentation of all evidence and argument before administrative hearing officer, handling of argument at trial and appellate court levels (briefing duties shared).

#6 (Employee Rights):

Derrey v. Toppenish School District, 69 Wn. App. 610, 849 P.2d 699 (1993);

(a) date of representation: 1992-1993;

(b) the name of the court and the name of the judge or judges before whom the case was litigated: Yakima County Superior Court, Washington Court of Appeals, Division III; judge: Hon. Heather Van Nuys;

(c) principal counsel for plaintiff: Donald D. Bundy (28313 Redondo Way S. Apt. 201, Des Moines, WA, 98198; phone 206-910-5593) and Dale E. Becker (103 N. 3rd St., Suite A, Yakima, WA, 98901; phone 509-574-1160; principal counsel for defendant: Lonny R. Suko and assisted by J. C. Ditzler (1201 3rd Ave., Suite 5200, Seattle, WA, 98101; phone 206-340-1000);

. . .capsule summary of the substance of the case. . .

Retired school employee appealed reduction in retirement benefits incurred after the Department of Retirement Systems audited school records and reduced his monthly check by $100. Because Derrey did not appeal the District's refusal to reimburse for the reduced benefit, an action was brought in Superior Court against the District, but more than 30

days after Derrey had been informed of the District's decision. Issues on appeal dealt principally with statutory interpretation. Result: former employee's claim based on contract thrown out for lack of timeliness but tort claim, if any, was preserved. Court of Appeals vacated trial court judgment and remanded for further hearing;

. . .the party or parties whom you represented. . .

Toppenish School District (respondent);

. . .describe in detail the nature of your participation in the litigation and the final disposition of the case. . .

Preparation and argument at trial and appellate levels (briefing duties shared with J. C. Ditzler).

#7 (Statutory Construction):

Public School Employees of Sunnyside - Teaching Assistants v. Sunnyside School District, 69 Wn. App. 630, 849 P.2d 1287 (1993);

(a) date of representation: 1992-1993;

(b) the name of the court and the name of the judge or judges before whom the case was litigated: Yakima County Superior Court and Washington Court of Appeals, Division III; judge: Hon. Michael W. Leavitt;

(c) principal counsel for plaintiff: Eric T. Nordlof (Public School Employees, P.O. Box 798, Auburn, WA, 98071; phone 253-833-1223); principal counsel for defendant: Lonny R. Suko and assisted by Kevin D. Kilpatrick (710 2nd Ave., Suite 1414, Seattle, WA, 98104; phone 206-684-7757);

. . .capsule summary of the substance of the case. . .

Washington State law states that school districts shall provide liability and property insurance protection for employees, "while engaged in the maintenance of order and discipline and the protection of school personnel and students. . ." Employee union claimed that language included insurance coverage for automobiles belonging to

employees parked on school lots when damaged by vandalism during school hours. Issues involved statutory construction. Trial and appellate court ruled in favor of school district noting that insurance need only be provided under the very limited circumstances set forth in the statute and not at all times while employees were on duty;

. . .the party or parties whom you represented. . .

Sunnyside School District;

. . .describe in detail the nature of your participation in the litigation and the final disposition of the case. . .

Preparation and argument at trial court and appellate levels (assisted on brief by Kevin D. Kilpatrick).

#8 (Wrongful Death):

Rogers v. Granger School District No. 204, 80 Wash. App. 1077 (Wash. App. Div. 3 1996); 1996 WL 123154 (Wash. App. Div. 3, Mar. 19, 1996), *petition for review denied* 925 P.2d 988 91996); Yakima County Superior Court Cause No. 92-2-00484-4;

(a) date of representation: 1991-1993;

(b) the name of the court and the name of the judge or judges before whom the case was litigated: Yakima County Superior Court and Washington Court of Appeals, Division III; judge: Hon. Michael W. Leavitt;

(c) principal counsel for defendant: Lonny R. Suko and co-counsel Robert M. Boggs (Lyon Law Offices, P.O. Box 1689, Yakima, WA, 98907; phone 509-248-7220); principal counsel for plaintiff: Edward A. Dawson (1300 W. Dean Ave., Spokane, WA, 99201; phone 509-328-4266);

. . .capsule summary of the substance of the case. . .

High school student killed from knife wound inflicted by young man coming onto premises, assisted by his father, near end of normal school day. Personal representative claimed District had failed to have adequate protection in place.

Despite extensive witness testimony and affidavits, District prevailed in its summary judgment motion at the trial court level. Affirmed on appeal;

. . .the party or parties whom you represented. . .

Granger School District No. 204;

. . .describe in detail the nature of your participation in the litigation and the final disposition of the case. . .

Preparation and oral argument at trial court level, assisted on briefs and affidavits by Robert M. Boggs (appeal handled entirely by Boggs following my appointment as U.S. Magistrate Judge in mid 1995).

#9 (Contract Rights):

Naches Valley School District No. JT3 v. Cruzen, et al., 54 Wn. App. 388, 775 P.2d 960 (1989);

(a) date of representation: 1988-1989;

(b) the name of the court and the name of the judge or judges before whom the case was litigated: Yakima County Superior Court, Washington Court of Appeals, Division III; judge: Hon. Cameron Hopkins, deceased;

(c) principal counsel for plaintiff/appellant: Lonny R. Suko; principal counsel for defendants/respondents: Blaine G. Gibson (Talbott, Simpson, Gibson & Davis, P.S., 308 N. 2nd Street, Yakima, WA, 98901; phone 509-575-7501);

. . .capsule summary of the substance of the case. . .

Retired teacher claimed right to be paid for accumulated sick leave accruing prior to retirement under collective bargaining agreement no longer in effect. School district argued that right had been given up in negotiations leading to approval of later collective bargaining agreement governing rights of parties at time of retirement. Issues included vested rights, admissibility of evidence, bargaining history, and whether grievance required

arbitration. Trial court judgment largely favored teachers and was affirmed on appeal;

. . .the party or parties whom you represented. . .

Naches Valley School District No. JT3;

. . .describe in detail the nature of your participation in the litigation and the final disposition of the case. . .

Presentation, briefing and argument at trial court and court of appeals.

#10 (Powers of School District):

Corcoran v. Lyle School District No. 406, 20 Wn. App. 621, 551 P.2d 185 (1978);

(a) date of representation: 1977-1978;

(b) the name of the court and the name of the judge or judges before whom the case was litigated: Klickitat County Superior Court; judge: Hon. Ted Kolbaba;

(c) principal counsel for respondent: Lonny R. Suko and co-counsel J. Eric Gustafson (Lyon Law Office, P.O. Box 1689, Yakima, WA, 98907; phone 509-248-7220); principal counsel for appellant: James D. Ladley (1014 Franklin St., Vancouver, WA, 98660; phone 360-735-8133);

. . .capsule summary of the substance of the case. . .

Teacher advised to sign and return contract to school board within specified time period. When contract not received by school district, district withdrew offer of employment. Issue on appeal was whether closely regulated public school employment statute permitted district to add time line for return of written contract. Trial court ruling in favor of school district affirmed on appeal;

. . .the party or parties whom you represented. . .

Lyle School District No. 406;

. . .describe in detail the nature of your participation in the litigation and the final disposition of the case. . .

Presentation and argument at trial court level and on appeal (assisted by J. Eric Gustafson).

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.)

I have had the privilege of being assigned as a Special Master in Federal District Court prior to my appointment as full-time Magistrate Judge in 1995. I also acted as a private mediator in a number of instances and was called upon to settle pending litigation in both state and federal court.

Additionally, I have served as a full-time United States Magistrate Judge for almost eight (8) years. Some of the most significant, satisfying, and valuable legal activities which I have pursued have involved the mediation and settlement of protracted and complex cases pending in the U.S. District Court for the Eastern District of Washington. In each instance, finality has been effected by agreement in the midst of time-consuming, costly, and extended court proceedings.

Cases have run the gamut from the intentional killing and maiming of civilians by a disgruntled, former enlistee at an airbase hospital to settlement of ongoing environmental claims arising from the alleged discharged of dairy waste into waterways regulated by federal law. Other cases I have had the privilege of resolving by mediation include a ten year running legal dispute between some members of the Spokane Gypsy community and law enforcement agencies in the same community; and a wrongful death claim and numerous property damage claims against the Burlington Northern Railroad stemming from a 20,000 acre crop and range land fire.

In almost every case, earlier settlement efforts had failed and appeals had either occurred or were anticipated. A small sampling of the many cases which I have mediated as a United States Magistrate Judge follow:

Gypsy Church of the Northwest, et al. v. Spokane County, et al., C-89-423-AAM and C-89-425-AAM; litigation involved a running ten year dispute over illegal search and seizure issues with appeals both to the Supreme Court of the State of Washington and to the Ninth Circuit Court of Appeals; earlier mediations, including settlement discussions under supervision of the Ninth Circuit Court of Appeals had not resulted in a resolution;

Sigman, et al. v. USA, CS-95-534-JLQ; consolidated cases involved severe injury and death claims of more than two dozen plaintiffs who were victimized by a gunman at Fairchild Air Force Base near Spokane in the early 1990's. The case was appealed to the Ninth Circuit Court of Appeals, returned to the District Court and assigned for mediation; mediation occurred over several days and resulted in a comprehensive settlement and the payment of approximately 17 million dollars. Issues involved liability and damages as well as division of proceeds among grievously injured parties who were represented by separate counsel;

Community Association for Restoration of the Environment v. DeRuyter, CY-99-3092-WFN; environmental issues involving alleged discharge of effluent from dairies into waterways of the United States resulted in implementation of prospective measures designed to preclude additional litigation and ongoing damage;

Heider v. Burlington Northern Railway; CS-98-355-AAM; Perez v. Burlington Northern Railway; CS-98-356-WFN; cases involved claims by approximately 56 parties for personal injury and property damages, and a claim for wrongful death by the family of a man who was tragically killed in a fire which consumed thousands of acres of crops and range land in eastern Adams County, Washington; mediation sessions occurred on approximately seven separate days over a three month period. Total payments of approximately 11 million dollars apportioned between the parties were made;

Erickson v. United States, C97-5309(RJB) WFN; federal civil rights and related claims filed against the U.S. Marshal's Office in the Western District of Washington and assigned for trial by a Federal District Judge in this District were settled following mediation; resolution prior to trial was thought to be highly unlikely.

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.

   Monthly payments of $1,600 from former law firm (Lyon Law Offices) will continue through approximately July, 2003, to compensate for ownership interest in firm.

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.

   Conflicts of interest can arise from many sources. A judge has a duty to be pro-active in monitoring his investment and property holdings and in making arrangements to cross-check the same against new civil and criminal cases assigned to him. While I currently know of no financial arrangements which are likely to present potential conflicts for me during my initial service (I have served as a full-time U.S. Magistrate Judge for almost eight (8) years), I plan to continue to avoid accepting cases which involve any members of my former law firm, former clients (whether corporate or individual) and others where an actual or apparent conflict may exist. I also intend to resolve any significant doubts concerning the appearance of conflict of interest in favor of recusal simply because form can be as important in the eyes of the litigants (and public) as substance. A judge's impartiality should never be placed in question by the actual or apparent existence of a potential conflict of interest.

3. ɔ you have any plans, commitments, or agreements to pursue ıtside employment, with or without compensation, during ɔur service with the court? If so, explain.

ɔ.

4. ist sources and amounts of all income received during the ılendar year preceding your nomination and for the current ılendar year, including all salaries, fees, dividends, ıterest, gifts, rents, royalties, patents, honoraria, and ther items exceeding $500 or more (If you prefer to do so, ɔpies of the financial disclosure report, required by the thics in Government Act of 1978, may be substituted here.)

ɔurces of income for calendar years 2002.

ee attached Financial Disclosure Report.

5. lease complete the attached financial net worth statement ı detail (Add schedules as called for).

inancial net worth statement provided herewith.

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

No.

FINANCIAL STATEMENT

NET WORTH

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

ASSETS		LIABILITIES	
-Cash on hand and in banks	$ 123,000	Notes payable to banks-secured	$ 0
-U.S. Government Securities-add schedule	23,000	Notes payable to banks-unsecured	0
-Listed securities-add schedule	454,000	Notes payable to relatives	0
-Unlisted securities-add schedule	0	Notes payable to others	0
-Accounts and notes receivable	0	Accounts and bills due	3,000
Due from relatives and friends	0	Unpaid income tax	0
Due from others	8,000	Other unpaid income and interest	0
Doubtful	0	Real estate mortgage payable-add schedule	0
-Real estate owned-add schedule	346,000	Chattel mortgages and other liens payable	0
-Real estate mortgages receivable	0	Other debts-itemize:	0
-Autos and other personal property	50,000		
-Cash value-life insurance	15,000		
-Other assets itemize:			
Cabin (leasehold)	90,000	Total liabilities	3,000
Retirement Funds	1,020,000	Net Worth	$2,171,000
Total Assets:	$2,179,000	Total liabilities and net worth	$2,179,000

CONTINGENT LIABILITIES		GENERAL INFORMATION	
-As endorser, comaker or guarantor	0	Are any assets pledged? (Add schedule)	No
-On leases or contracts	0	Are you defendant in any suits or legal actions	No
-Legal Claims	0	Have you ever taken bankruptcy	No
-Provision for Federal Income Tax	5,000		
-Other special debt	0		

SCHEDULE

U.S. Government Securities:

Rittenhouse Fin. Services	$ 23,000

Securities:

Equities	184,000
Corporate Bonds	18,000
Municipal Bonds	177,000
Mutual Funds	60,000
Municipal Bond Fund	15,000
TOTAL:	$454,000

Real Estate:

Home	225,000
Partial Interest in Office Property	150,000
Partial interest in Farm Land (belongs to spouse)	20,000
TOTAL:	$395,000

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.

   During the early years of my practice, I volunteered time at the local Southeast Community Center and elsewhere to assist those who were too poor to hire legal counsel. This typically involved a few hours on Saturday morning a couple of times per year. As the years passed, our office routinely gave advice to disadvantaged persons who were unable to afford counsel even though the client's original contact with the firm anticipated the payment of fees for the representation which was being provided. Almost all members of my former firm made contributions. Examples include advice on landlord tenant matters, domestic issues and related cases.

   During the 1970's, I also served on the Board of Directors of the Mabel Swan Manor which raised government funding (through grants and assistance) to build a large retirement facility for the low-income elderly. In this capacity, I assisted with efforts to obtain funding and remained an active board member until a multi-story apartment complex was completed in the mid 1970's. All time which was spent on this project was donated.

   As a sitting full-time judicial officer for the last eight (8) years, I am formally precluded from practicing law. Accordingly, my assistance to the disadvantage has taken other channels. For example, I have worked on multiple housing projects involving Habitat for Humanity and donated to the cause here in the community in which I live. Through our church affiliation, my wife and I have also contributed to relief causes, both at home and abroad. I have had occasion to ring the bells for the Salvation Army Christmas drive through my service club and have worked at charity fund raising activities.

In reality, none of us ever do enough to assist the "disadvantaged." In performing my professional duties, I do my level best to see that those who are not well off (and otherwise educationally or economically deprived) receive every consideration or service which is available beginning with courteous and thoughtful treatment, appointment of counsel, court intervention where necessary, and appropriate follow-up consistent with maintaining neutrality in a court setting.

On a broader level, I sit on the Board of Directors of the Washington Education Foundation which administers millions of dollars for college scholarships dedicated to the disadvantaged. In performing this role, I have attended meetings in several cities throughout the state of Washington, have participated in scholarship committee meetings, and have provided feedback at regular periodic intervals. I intend to continue this activity and currently dedicate total time involving several work days per year away from the office.

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 currently belong to any organization which discriminates.

   I am a member of the Yakima Kiwanis service club (1977-present) which at one time did not have female members. The club voted to change its bylaws many years ago and now is composed of both men and women.

   Although I never attended a single meeting, at one time I held a membership in the Elks club (approximately 1970's through early 1990's). Although the club admitted women to its facility (golf course, dining room), I do not believe women were included as voting members at that time.

Since I am a non-golfer and used the dining room only very rarely for occasional lunches with more senior members of my former law firm, I resigned my membership years ago.

3. : there a selection commission in your jurisdiction to :commend candidates for nomination to the federal courts? : so, did it recommend your nomination? Please describe ›ur experience in the entire judicial selection process, :om beginning to end (including the circumstances which led › your nomination and interviews in which you ırticipated).

ıile the Eastern District of Washington does not have a :anding selection commission, our state's two (2) ›mocratic Senators and the Republican members of Congress :om this area cooperatively selected a six (6) member bi-ırtisan screening committee composed of three (3) Democrats ıd three (3) Republicans. The committee ultimately :lected three (3) names, including mine, which were then ›rwarded for further consideration.

set of questions had been prepared for completion by all ›plicants and a tight time line for receipt of applications ıs established. Notice was provided publicly to :ospective applicants and interviews were conducted only :ter all written materials were received and reviewed by ıe committee.

felt that the process was demanding, expeditious and fair. ıe three finalists were individually interviewed by our two !) United States Senators as well as the two (2) ›ngressman from this area. I am extremely grateful for the .me and dedication to this process which was shown by each : those elected officials whom I greatly respect.

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

Absolutely not.

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.

Our founding fathers wisely separated the functions served by the legislative, executive and judicial branches of government. The role of the judiciary begins with an affirmation that the primary source of law lies with the constitution and legislative enactments of our federal, state and local governments, subject only to applicable constitutional restraints and any superior court precedents. Accordingly, judges should avoid deciding issues which are not legitimately placed before them. Judicial rulings should be confined to the facts of each case and not contain dicta which may be interpreted as judicial legislation. The court should respect precedent which gives stability to our body of laws.