

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Raymond Paul Moore

2. **Position**: State the position for which you have been nominated.

United States District Judge for the District of Colorado

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office of the Federal Public Defender
633 17th Street, Suite 1000
Denver, Colorado 80202

4. **Birthplace**: State year and place of birth.

1953; Boston, Massachusetts

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1975 – 1978, Yale Law School; J.D., 1978
1971 – 1975, Yale College; B.A. (*cum laude*), 1975

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

1993 – Present
Office of the Federal Public Defender
Districts of Colorado and Wyoming
633 17th Street, Suite 1000
Denver, Colorado 80202
Federal Public Defender (2004 – Present)

Acting Federal Public Defender (2003)
Assistant Federal Public Defender (1993 – 2003)

1986 – 1992
Davis, Graham & Stubbs
1550 17th Street, Suite 500
Denver, Colorado 80202
Partner (1987 – 1992)
Associate Attorney (1986)

1982 – 1986
United States Attorney's Office for the District of Colorado
1225 17th Street, Suite 700
Denver, Colorado 80202
Assistant United States Attorney

Summer 1977; 1978 – 1982
Davis, Graham & Stubbs
1550 17th Street, Suite 500
Denver, Colorado 80202
Associate Attorney (1978 – 1982)
Summer Associate (Summer 1977)

Summers 1975 – 1976
Dorchester Division, Boston Municipal Court Department
510 Washington Street
Dorchester, Massachusetts 02124
Probation Officer Intern

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I registered for selective service upon turning 18.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Alfred A. Arraj Advocacy Award, American College of Trial Lawyers (1993)

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

Administrative Office of the U.S. Courts, Office of Defender Services (A.O.)
Defender Performance Measurement Working Group (approx. 2006 – Present)
Defender Advisory/Expert Panel – Case Weights (approx. 2007 – 2010)
Defender Advisory/Expert Panel – Staffing Study (2011 – Present)
Sentencing Resource Group (2009 – Present)

American College of Trial Lawyers
State Committee (approx. 2001 – 2002)

Colorado Bar Association (1978 – 1982)

Sam Cary Bar Association (1978 – 1982)

U.S. Court of Appeals for the Tenth Circuit
Criminal Justice Act Standing Committee, Chair (2007 – Present)
Alternate Employment Dispute Resolution Coordinator (2007 – Present)

U.S. District Court for the District of Colorado
Criminal Justice Act Standing Committee (2004 – Present)
Committee on Conduct (1988 – 1991)
Court Security Committee (approx. 2008 – Present)

As the Federal Public Defender for the Districts of Colorado and Wyoming, I have frequently served on Committees of the Courts. Listed above are Committees of a more formal nature and do not include a variety of ad hoc Committees of a less formal nature formed for purposes ranging from examining the Criminal Justice Act Plan for the District of Wyoming to advising with respect to appointment of other Defenders in other districts.

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Colorado, 1978

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Tenth Circuit, 1979
United States District Court for the District of Colorado, 1978
Supreme Court of Colorado, 1978

There have been no lapses in membership.

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

American College of Trial Lawyers (1999 – Present)
Louisiana Historical Society (approx. 2002)

- b. 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, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, neither of the organizations listed in response to 11a currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

Raymond Moore, Statement at the U.S. Sentencing Commission Public Hearing: Current State of Federal Sentencing (Feb. 16, 2012). Copy supplied.

Letter from Raymond P. Moore, Federal Public Defender, to Thomas E. Downey, Jr., Chair, Pretexting Subcommittee of the Standing Rules Committee of the Colorado Supreme Court (Feb. 8, 2012). Copy supplied.

Raymond Moore, Statement at the U.S. Sentencing Commission Public Hearing: The Sentencing Reform Act: 25 Years Later (Oct. 21, 2009). Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

May 31, 2012: Panelist, "Staffing Studies and Related Issues," National Seminar for Federal Defenders, Atlanta, GA. I have no notes, transcripts, or recordings. The seminar was organized by the Office of Defender Services, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Washington, DC 20544.

May 31, 2012: Panelist, "Managing Offices in Times of Limited Resources," National Seminar for Federal Defenders, Atlanta, GA. I have no notes, transcripts, or recordings. The seminar was organized by the Office of Defender Services, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Washington, DC 20544.

January 26, 2011: Panelist, "Case Weights and Related Issues," National Seminar for Federal Defenders, Charleston, SC. I have no notes, transcripts, or recordings. The seminar was organized by the Office of Defender Services, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Washington, DC 20544.

June 1997 (est.): I presented on the topic of computer forensic analysis and defense of child pornography cases at a National Conference of Assistant Federal

Public Defenders, Dallas, TX. I have no notes, transcripts or recordings. The Conference was organized by the Office of Defender Services, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Washington, DC 20544.

In addition, our office provides training to the local Criminal Justice Act panels on an ongoing and recurring basis. These are closed sessions and are part of the normal operations of the office. For the Wyoming panel, there is an annual training session in October in Cheyenne, Wyoming, or Estes Park, Colorado. For the Colorado panel, there are multiple sessions throughout the year, all in Denver, Colorado, at our offices or at private law firms which make space available to us for these activities.

I have spoken or given lectures to the panels at various times in such sessions. In general, I speak almost every year at the Wyoming training session. In Colorado, members of my office are primarily responsible for the content and presentation of the training sessions, but I have spoken at such sessions on multiple occasions. I have no record of specific dates, and I have no notes, transcripts or recordings.

To the best of my recollection, the topics that I have addressed with the panels are a mix of legal and administrative matters. Over the years, I have spoken on computer forensics and child pornography, a multitude of guideline issues, and Supreme Court developments following decisions in *Blakely v. Washington*, 542 U.S. 296 (2004); *United States v. Booker*, 543 U.S. 220 (2005); and *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010). I have also spoken on a variety of administrative matters affecting the panels, including voucher issues, the need to utilize expert services, budgetary developments in Washington, DC, and similar matters with potential for impact on panel services or payments.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

John Ingold, *Crack-Cocaine Offenders' Sentences Reduced Under New Federal Rules*, The Denver Post, Nov. 8, 2011. Copy supplied.

Felisa Cardona, *Federal Sentencing Guidelines Change Today for Some Drug Crimes*, The Denver Post, Nov. 1, 2010. Copy supplied.

Felisa Cardona, *Vacant Judge Slots Put Plea Into Motion*, The Denver Post, May 18, 2008. Copy supplied.

Alicia Caldwell, *Lawyers Angle for Sentence Changes, Supreme Court Ruling Lauded, "Mandatory Guidelines" Are Now Unconstitutional, So Attorneys Are Appealing to Judges' Discretion*, The Denver Post, Jan. 14, 2005. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

i. Of these, approximately what percent were:

jury trials: _____%
bench trials: _____% [total 100%]

civil proceedings: _____%
criminal proceedings: _____% [total 100%]

b. Provide citations for all opinions you have written, including concurrences and dissents.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

e. Provide a list of all cases in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide 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, provide copies of the opinions.

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not held judicial office.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:
 - a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
 - b. a brief description of the asserted conflict of interest or other ground for recusal;
 - c. the procedure you followed in determining whether or not to recuse yourself;
 - d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I have not served as a judge.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

In 2003, I was appointed by the United States Court of Appeals for the Tenth Circuit to be Acting Federal Public Defender for the Districts of Colorado and Wyoming from approximately June to December 2003. In 2004, I was appointed by the Court to be Federal Public Defender for the Districts of Colorado and Wyoming. I have since been reappointed to successive terms. Acting for the Court, my initial appointment was by then-Chief Judge Deanell Tacha. I was appointed for my second term by then-Chief Judge Robert Henry. I was appointed to my current term by current Chief Judge Mary Beck Briscoe.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held office in or rendered services to any political party or election committee. I have never held a position or played any role in any political campaign.

16. **Legal Career:** Answer each part separately.

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

- i. 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 have not served as a clerk to a judge.

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

I have not practiced law alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1978 – 1982
Davis, Graham & Stubbs
1550 17th Street, Suite 500
Denver, Colorado 80202
Associate Attorney

1982 – 1986
United States Attorney's Office for the District of Colorado
1225 17th Street, Suite 700
Denver, Colorado 80202
Assistant United States Attorney

1986 – 1992
Davis, Graham & Stubbs
1550 17th Street, Suite 500
Denver, Colorado 80202
Associate Attorney (1986)
Partner (1987 – 1992)

1993 – Present
Office of the Federal Public Defender
Districts of Colorado and Wyoming
633 17th Street, Suite 1000
Denver, Colorado 80202
Federal Public Defender (2004 – Present)
Acting Federal Public Defender (2003)
Assistant Federal Public Defender (1993 – 2003)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

As an associate at Davis, Graham & Stubbs (1978 – 1982), my practice changed periodically as I rotated throughout various practice fields including real estate, water, oil and gas, and litigation. My practice ultimately settled upon general litigation. There, my role was typical of firm practice, with much of my time devoted to discovery and research, with court appearances being infrequent and primarily in a support role.

I then served four years as an Assistant United States Attorney (1982 – 1986), during which time I was a federal prosecutor. I was responsible for all phases of the matters assigned to me, including grand jury proceedings, motions practice, trial, and appeal. My practice was entirely criminal cases. I did not specialize, but did a wide variety of criminal cases.

Following my time at the U.S. Attorney's Office, I returned to Davis, Graham & Stubbs in mid-1986 as a litigation associate. I became a partner in 1987. During this time, I was either wholly responsible for my cases or part of a team of attorneys assigned to more complex litigation. I worked exclusively in general litigation.

At the end of 1992, I resigned from the partnership and began as an Assistant Federal Public Defender with the Federal Public Defender's Office in January of 1993. As a member of the trial unit, I provided vertical representation to all clients from pre-trial matters through appeal. I became the Acting Federal Public Defender in 2003, and was appointed Federal Public Defender for the Districts of Colorado and Wyoming in

January 2004. The work of my office, and my practice since joining the office, has been and remains the provision of full-time defense to the indigent charged with federal criminal offenses. Since my appointment as the Federal Public Defender, however, my personal representation of individual clients has diminished over time as I have needed to concentrate on the supervisory and administrative duties of the office, including but not limited to budgeting, procurement, personnel, space acquisition, staff reviews, salary determinations, case supervision, assignment matters, office policies, and all other aspects of office operation and the accomplishment of its mission.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

While in private practice at Davis, Graham & Stubbs, my clients were mostly corporate clients, although I represented individual clients on occasion. The corporate clients tended to be large, national corporations involved in litigation as defendants against comparable entities or individuals. The firm represented both plaintiffs and defendants.

While at the U.S. Attorney's Office, my client was the United States. I worked with a variety of federal law enforcement agencies in pursuing prosecutions against persons charged with violating federal criminal laws.

As an Assistant Federal Public Defender, and later as the Federal Public Defender, I have represented persons accused of violating federal criminal laws who cannot afford to retain counsel.

I have not specialized at any of these locations.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

My time in private practice consisted of two separate periods of association with the firm of Davis, Graham & Stubbs. During the first period (1978 – 1982), I rotated through practice groups, and my appearances in court were infrequent. During my second period at the firm (1986 – 1992), my entire practice was in litigation, and my court appearances were occasional.

At all times when I have served in government (1982 – 1986; 1993 – Present), my practice has consisted solely of criminal litigation. Court appearances were frequent, if not daily, during much of this period. However, since becoming the Federal Public Defender in 2004, my time in court has gradually decreased to only occasional appearances.

i. Indicate the percentage of your practice in:

1. federal courts: 90%
2. state courts of record: 10%
3. other courts:
4. administrative agencies:

ii. Indicate the percentage of your practice in:

1. civil proceedings: 20%
2. criminal proceedings: 80%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried approximately 25 to 30 cases to verdict, in each instance either as sole counsel or co-counsel. I estimate the percentage as being 60% with the U.S. Attorney's Office and 40% as an Assistant Federal Public Defender. While in private practice, I tried one case to verdict as sole counsel. All of these matters have been in federal court.

i. What percentage of these trials were:

1. jury: 95%
2. non-jury: 5%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court. However, one matter has been presented to and argued before the Court by my office under my name as Federal Public Defender. That matter is *Wood v. Milyard*, 132 S. Ct. 1826 (2012). Although I did not author the briefs, I maintained supervisory control over them. The briefs are available at 2011 WL 4454481 (petition for writ of certiorari); 2011 WL 6464386 (brief for petitioner); and 2012 WL 523348 (reply brief for petitioner).

Additionally, my office has been co-signator on briefs with all defender offices in a number of cases during my time as Defender. With respect to such matters, I neither authored nor maintained supervisory control over the briefs. These matters are:

Pepper v. United States, 131 S. Ct. 1229 (2011) (Brief of the Federal Public and Community Defenders and the National Association of

Federal Defenders as Amici Curiae in Support of Petitioner, 2010 WL 3518665)

Magwood v. Culliver, 130 S. Ct. 2788 (2010) (Brief of Amici Curiae National Association of Criminal Defense Lawyers, Federal Public Defenders and Community Defenders, and the Association Of Federal Public Defenders in Support of the Petitioner, 2010 WL 108263)

Dillon v. United States, 130 S. Ct. 2683 (2009) (Brief of the Federal Public and Community Defenders and the National Association of Federal Defenders as Amici Curiae in Support of Petitioner, 2010 WL 383624)

Barber v. Thomas, 130 S. Ct. 2499 (2009) (Brief of the National Association of Criminal Defense Lawyers, The National Association of Federal Defenders, The Federal Public and Community Defenders in the United States, Families Against Mandatory Minimums, Prison Fellowship Ministries and Dean Erwin Chemerinsky as Amici Curiae in Support of Petitioner, 2009 WL 2248356; Brief of the National Association of Criminal Defense Lawyers, The National Association of Federal Defenders, The Federal Public and Community Defenders in the United States, Families Against Mandatory Minimums, The American Civil Liberties Union, and Law Deans and Faculty as Amici Curiae in Support of Petitioner, 2010 WL 302212)

Kimbrough v. United States, 552 U.S. 85 (2007) (Brief Amici Curiae of the Federal Public and Community Defenders and the National Association of Federal Defenders in Support of Petitioner, 2007 WL 2197507)

Gall v. United States, 552 U.S. 38 (2007) (Brief Amici Curiae of the Federal Public and Community Defenders and the National Association of Federal Defenders in Support of Petitioner, 2007 WL 2197511)

Rita v. United States, 551 U.S. 338 (2007) (Brief Amici Curiae of the Federal Public and Community Defenders and the National Association of Federal Defenders in Support of Petitioners, 2006 WL 3760844)

Mujahid v. Daniels, cert. denied 547 U.S. 1149 (2006) (Amicus Brief in Favor of Certiorari Families Against Mandatory Minimums Foundation, The Federal Public Defender and Community Defender Organizations, National Association of Criminal Defense Lawyers, 2006 WL 302430)

There may be other cases that I have been unable to recall or identify on which my name appears on the brief in an institutional capacity.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases

were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
- (1) *United States v. Wilson*, No. 97 CR 313 (D.Colo. 1997), *rev'd*, 182 F.3d 737 (10th Cir. 1999). This was the second of successive prosecutions against defendant for possession of child pornography. The first was resolved by voluntary government dismissal following development of lay and expert evidence that the subject images were “Photoshopped” rather than real in critical particulars. The second case, based on images which were “real,” resulted in a trial on the merits. I was sole counsel for Mr. Wilson at both the trial and appellate levels. The defense was based on the jurisdictional nexus – specifically on the nature of proof required to show that digital images had travelled in interstate commerce. Mr. Wilson was convicted at trial. His conviction was reversed on appeal based on inadequacy of the evidence with respect to the interstate travels of the particular images possessed by Mr. Wilson.

The trial occurred in 1998, presided over by U.S. District Judge Zita Weinshienk. The prosecutor was James S. Russell. He is currently assigned to the Asset Forfeiture Section of the U.S. Attorney’s Office, 1225 17th Street, Suite 700, Denver, Colorado 80202; Telephone: (303) 454.0100.

- (2) *United States v. Levine*, No. 93 CR 213 (D.Colo. 1993), *rev'd*, 41 F.3d 607 (10th Cir. 1994). This was a criminal case in which Ms. Levine was charged with consumer product tampering in connection with her surreptitious insertion of a syringe into a can of Pepsi Cola while purchasing the cola at a local supermarket. This was one of several suspected cases of tampering which occurred throughout the country during the height of the “Pepsi Panic” of 1993. This incident, however, was captured on videotape. I was sole counsel for Ms. Levine at both the trial and appellate levels. The trial defense focused on whether the interstate commerce requirement necessary for federal jurisdiction could attach to the container and ingredients used in the production of the subject can of Pepsi. Ms. Levine was convicted at trial. Her conviction was reversed on appeal upon a legal determination that the nexus could not so attach.

The 1993 trial of this matter was presided over by U.S. District Judge Jim R. Carrigan. The prosecutor was Thomas O’Rourke. He is currently Senior Litigation Counsel for the U.S. Attorney’s Office, 1225 17th Street, Suite 700, Denver, Colorado 80202; Telephone: (303) 454.0100.

- (3) *United States v. Cook-Bey*, No. 82 CR 284 (D.Colo. 1982), *aff'd*, 712 F. 2d 883 (10th Cir. 1983). This was a criminal prosecution for bank robbery where all victim identification evidence was suppressed following government disclosure of police improprieties. At trial, the government was precluded from introducing any form of victim identification evidence while the defense was permitted to introduce evidence of the failure of certain tellers to pick out the defendant from a live lineup. I was sole counsel for the United States, both at trial and on appeal. Despite the absence of a confession or other corroborating evidence, Mr. Cook-Bey was convicted at trial based solely on his appearance. His conviction was upheld on appeal.

The trial was held in 1983, presided over by U.S. District Judge Richard P. Matsch. Defense counsel was then Federal Public Defender Michael G. Katz. He is currently retired, but personal contact information is available from the Federal Public Defender's Office.

- (4) *United States v. Hoffner*, district court case number unavailable and not appearing on Pacer, appeal reported at *United States v. Hoffner*, 777 F. 2d 1423 (10th Cir. 1985). This was a criminal prosecution asserting that a licensed physician's weight loss practice was, for several patients, a front for illegal distribution of prescription medications. The case involved the determination of the boundaries of legitimate medical practice and of what a physician could reasonably be charged with "knowing" based on her patients' behavior. I was sole counsel for the United States at trial and on appeal. Following a first trial which resulted in a hung jury, Dr. Hoffner was convicted on re-trial. Her conviction was upheld on appeal.

This matter was tried in 1985 before then U.S. District Judge John Moore. Then District Judge Moore is currently Tenth Circuit Judge John Porfilio. Defense counsel was Walker Miller, now retired U.S. District Judge Walker Miller, District of Colorado.

- (5) *Hartford House, Ltd. v. Hallmark Cards*, No. 86 C 1458 (D.Colo.1986). This was a civil case involving claims by Hartford House, Ltd., doing business as Blue Mountain Arts, of trade dress infringement against Hallmark Cards, Inc. The allegations pertained to the "look and feel" of a Hallmark card line known as Shoebox Greetings and its purported infringement on the trade dress of Blue Mountain Arts' greeting cards. Davis, Graham & Stubbs represented Hallmark Cards. As a member of the firm, I was part of a core team of attorneys responsible for defending Hallmark. My role on the case varied over the course of the litigation from discovery and research (both legal and historical) to coordination with experts on the selection and presentation of a defense. Although the case ultimately settled, I was selected by the client's in-house counsel to be part of the trial team in the event the case went to trial.

In the earliest stages of the litigation, a temporary restraining order was issued against Hallmark Cards by U.S. District Judge Jim R. Carrigan. *Hartford House, Ltd. v. Hallmark Cards, Inc.*, 647 F. Supp. 1533 (D. Colo. 1986). The matter continued thereafter for a protracted period before eventually being resolved by settlement.

Lead counsel for Hallmark Cards at Davis, Graham & Stubbs was Andrea Williams. She is retired from the firm. Personal contact information may be obtained from the firm at telephone (303) 892.9400. Hartford House was represented by multiple attorneys. Steve C. Briggs was lead, or lead local, counsel. Mr. Briggs is currently with the Judicial Arbiter Group, Inc., 1601 Blake Street, Suite 400, Denver, Colorado 80202; Telephone: (303) 572.1919.

- (6) *United States v. Williams*, No. 85 CR 312 (D.Colo. 1985); appeal unreported and not appearing in Westlaw, but bearing Docket No. 86-0164. This was a criminal prosecution of a former police officer for multiple armed bank robberies. I was sole counsel for the United States at trial. The appearance of defendant and conduct of the robberies varied across the robberies. Accordingly, counts of the indictment were severed into distinct and separate groups for trial. Convictions were obtained on the trials of the first two groups. I then dismissed the remaining charges as further convictions were unnecessary for any viable sentencing purpose. All convictions were upheld on appeal.

These matters were tried in 1985 before U.S. District Judge Richard P. Matsch. Defense counsel was then Assistant Federal Public Defender Charles Szekely. He is currently retired, but personal contact information is available from the Federal Public Defender's Office.

- (7) *United States v. Pritchard*, No. 01 CR 228 (D.Colo. 2001), *aff'd*, 86 Fed. Appx. 387 (10th Cir. 2004). Mr. Pritchard was charged with multiple counts of wire fraud in connection with his sales of airplanes and airplane parts across the United States which, despite payment, were never delivered to customers for a variety of reasons. I represented Mr. Pritchard at both trial and appeal. He was convicted at trial, and his conviction was upheld on appeal.

This case was tried in 2003 before U.S. District Judge Wiley Daniel. The prosecutor was Valeria Spencer. She is currently at the U.S. Attorney's Office, 1225 17th Street, Suite 700, Denver, Colorado 80202; Telephone: (303) 454.0100.

- (8) *United States v. Jordan*, No. 04 CR 229 (D.Colo. 2004), *aff'd*, 485 F. 3d (10th Cir. 2007). This matter involved an inmate-on-inmate homicide at U.S.P. Florence where Mr. Jordan was incarcerated. Mr. Jordan was convicted at trial. Following that conviction and before sentencing, Mr. Jordan moved to have trial counsel replaced due to allegations of ineffective assistance of counsel. Then Chief Judge Babcock requested that I personally take on representation of Mr. Jordan for sentencing and related matters. A complete review of the trial ensued followed by a variety of attacks on guideline enhancements and sentencing recommendations. Ultimately, Mr. Jordan received a substantial sentence (30 years), but less than the life sentence vigorously sought by the government. The conviction and sentence were sustained on appeal. Although I handled all proceedings at the trial level, other staff handled Mr. Jordan's appeal.

This matter proceeded before U.S. District Judge Lewis Babcock. The prosecutor was David M. Conner. Mr. Conner is currently assigned to the Major Crimes Unit of the U.S. Attorney's Office, 1225 17th Street, Suite 700, Denver, Colorado 80202; Telephone: (303) 454.0100.

- (9) *United States v. Qayyum*, No. 03 CR 127 (D.Colo. 2003). This was a multi-defendant criminal case where Mr. Qayyum and other members of his family were accused of lying about their familial relationship with a Pakistani man in order to facilitate his admission into the United States and, thereafter, of continuing to lie about that relationship once a terrorism investigation had commenced regarding the Pakistani individual. The technical charges against the defendants were conspiracy and alien harboring. The case did involve Foreign Intelligence Surveillance Act issues. I was sole defense counsel for Mr. Qayyum. The matter proceeded over a three-year period before U.S. District Judge Lewis Babcock. During part of this time, until the district court's decision was reversed on appeal, *United States v. Qayyum*, 451 F.3d 1214 (10th Cir. 2006), the major conspiracy count was dismissed on statute of limitations grounds. Ultimately, after several superseding indictments, the case resolved by plea without trial. Mr. Qayyum received one year of probation in exchange for his plea to a single count of false statement. As part of a package resolution, all remaining defendants received misdemeanor resolutions or dismissals of charges against them.

This matter was presided over by U.S. District Judge Lewis Babcock. The prosecutor was David Gaouette. He is currently Executive Assistant U.S. Attorney for the U.S. Attorney's Office, 1225 17th Street, Suite 700, Denver, Colorado 80202; Telephone: (303) 454.0100.

Co-defendants' counsel included Jeff Pagliuca of Haddon, Morgan and Foreman, 150 East 10th Avenue, Denver, Colorado 80203; Telephone: (303) 832.2628; David Lane of Killmer, Lane & Newman, LLP, 1543 Champa Street, Suite 400, Denver, Colorado 80202; Telephone: (303) 571.1000; Thomas Hammond, 1544 Race Street, Denver, Colorado 80206; Telephone: (303) 872.5706; Donald Knight of Knight & Moses, LLC, 7258 South Elati Street, Suite 201, Littleton, Colorado 80120; Telephone: (303) 797.1645; William Michael Whelan, 703 Market Street, Suite 913, San Francisco, California 94103; Telephone: (888) 597.6584; and Marc Milavitz, 1733 Canyon Boulevard, Boulder, Colorado 80302; Telephone: (303) 442.2166.

- (10) *United States v. Mejia-Terriquez*, No. 00 CR 474 (D.Colo. 2000). This was a drug case in which Mr. Mejia was accused of being a distributor of methamphetamine. I was sole counsel for Mr. Mejia. The matter was tried in January 2001. Following presentation of the government's case-in-chief, the Court granted judgment of acquittal based on Mr. Mejia's contention that the jury could not reasonably interpret critical government evidence as incriminating without missing expert testimony.

This case was tried before U.S. District Judge Edward Nottingham. The prosecutor was James Boma. He is currently assigned to the Drug Task Force of the U.S. Attorney's

Office, 1225 17th Street, Suite 700, Denver, Colorado 80202; Telephone: (303) 454.0100.

18. **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 fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As the Federal Public Defender for the Districts of Colorado and Wyoming, I have personally represented indigent defendants as well as overseen thousands of additional representations in two distinct districts. In addition to two traditional trial units, I also oversee an appellate unit which provides representation to indigent defendants from across the entire Tenth Circuit and a capital habeas appellate unit which is unique in the United States. That latter unit, upon appointment by the Tenth Circuit, supplements pre-existing district court counsel to provide appellate expertise and representation at the Circuit level and beyond in capital habeas cases. The clients of that unit are capital defendants from districts other than my own. I was involved in the creation of a Criminal Justice Act Appellate Panel, and serve as Chair and permanent member of the Standing Committee of that Panel. I also serve on the District Court Criminal Justice Act Standing Committee for the District of Colorado.

In addition, I consider my involvement with the Office of Defender Services advisory boards and projects to be of significance. I have for several years served on the Performance Measurement Working Group which seeks to ensure that high quality representation is maintained throughout the Defender system, measures and tracks such quality where possible, and confronts issues that threaten the quality of representation. As part of the work of the group, I and two other Defenders served as expert advisors and consultants to the Rand Corporation in its development of a case weights system for Defender organizations. I also currently head a small group of Defender personnel performing a similar function with respect to a staffing study being conducted by the Administrative Office's Policy and Strategic Initiatives Office. The Working Group makes recommendations to the Office of Defender Services and to other Defender advisory groups. Through such involvement on a national scale, I contribute to the direction of the national program and attempt to help guide Defender Offices through difficult representation and administrative issues in times of limited funding and staffing.

I have never performed any form of lobbying activities.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the 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. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no such plans, commitments or agreements.

22. **Sources of Income**: 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, licensing fees, 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.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, I would recuse myself from any criminal case in which counsel was appointed or retained at any point prior to the effective date of my resignation from the Office of the Federal Public Defender. I also would recuse myself from any case involving an individual represented by the Office of the Federal Public Defender during my tenure as Defender.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will resolve matters involving potential conflicts by application of Canon 3 of the Code of Conduct for United States Judges. I will also consult with the Administrative Office of the U.S. Courts for additional guidance.

25. **Pro Bono Work**: 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 my years of service at the Office of the Federal Public Defender, my full-time work has been in service of the disadvantaged.

26. **Selection Process**:

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On May 8, 2012, Senators Mark Udall and Michael Bennet formed a bipartisan Judicial Advisory Panel to review applications and to make recommendations to the Senators with respect to an upcoming vacancy on the bench of the U.S. District Court for the District of Colorado. Initially, I was asked to be a member of that Panel, and I agreed to serve. However, before the Panel began the official conduct of its business, I withdrew from the Panel and submitted a written application for the judicial vacancy. In late May 2012, I was interviewed by the Panel. On June 15, 2012, I was interviewed by Senators Udall and Bennet in the presence of some of their staff. On July 19, 2012, I was informed by the Senators that my name was being submitted to the White House.

Since July 20, 2012, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 24, 2012, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, DC. On November 14, 2012, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or

implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AFFIDAVIT

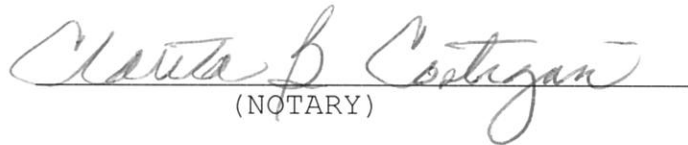
I, Raymond P. Moore, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

November 14, 2012
(DATE)


(NAME)



My Commission Expires 5/11/2013


(NOTARY)