

CANDIDATE COVER SHEET FOR KCBA JUDICIAL SCREENING
Information Taken from Washington State Governor's Office
Uniform Judicial Evaluation Questionnaire

NAME: Michael Bond

Business Address: Gardner Bond Trabolsi PLLC

Business Email: _____

Position Sought:

- King County Superior Court
- Washington State Court of Appeals, Div.I
- Washington State Supreme Court

KCBA considers the responses to the following questions on the Washington State Governor's Office's Uniform Judicial Evaluation Questionnaire to be public information, which may be disclosed to persons other than the Judicial Screening Committee and, in the case of judicial elections, will be publicly available:

Position Sought, Name, Business Address, Business email

Professional History: #8, 9, 10, 11, 12, 13, 14, 15,

Educational Background: #16, 17

Professional Experience: #18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32

Community and Civic Activities: #33

Professional History

8. Year admitted to practice law in Washington: 1979

9. Employment History:

Dates: January 1, 1997 to present

Organization: Gardner Bond Trabolsi PLLC

Address, telephone: 2200 6th Ave., Suite 600, Seattle, WA 98121 (206) 256-6309

Position: Shareholder

Supervisor: Not applicable

Nature of Practice: Civil litigation, usually defense with occasional general business advice, several court appearances each month, sometimes daily for weeks at a time.

Reason for Leaving: Not applicable

Dates: June 1, 1982 to December 31, 1996

Organization: Lee, Smart, Cook, Martin & Patterson

Address, telephone: 1320 Fourth Avenue, Suite 800, Seattle, WA 98121 (206) 624-7990

Position: Associate 1982-1988, partner/shareholder 1989-1996

Supervisor: Not applicable

Nature of Practice: Civil litigation, usually defense with occasional general business advice, several court appearances each month, sometimes daily for weeks or months at a time.

Reason for leaving: Dissatisfied with work environment, started own firm

Dates: May 1, 1975 to May 31, 1982

Organization: United States Marine Corps

Last address: Marine Corps Recruit Depot, San Diego, CA

Position: Captain, Judge Advocate, last position: Chief of Military Justice Office

Supervisor: Lt. Col. Glenn Hampton

Nature of Practice: Military justice, prosecute and defend crimes, appear before administrative hearings, advise Marines regarding wills, family issues, court appearances many times each month, sometimes daily.

Reason for leaving: Completed tour of duty and contract.

Dates: September 1973 to May 1, 1975

Organization: Carl's Junior Hamburgers

Address: Fullerton, CA

Position: Cook, night manager

Supervisor: Wayne

Nature of Practice: Cooked fast food and served as night manager.

Reason for leaving: I joined the Marines and went to law school.

Dates: 1972-1973
Organization: Disneyland
Address: Anaheim, CA
Position: Cook, New Orleans Square main kitchen
Reason for leaving: Left to return to work as a life guard and swim coach

Dates: 1970 to 1973
Organization: Placentia Park and Recreation
Position: Swim team coach and lifeguard

10. Other courts and jurisdictions in which you have been admitted:

Admitted to U.S. District Court Seattle and Spokane shortly after coming to Seattle in 1982
Admitted to 9th Circuit Court of Appeals, do not recall date

11. Bar associations and professional societies:

Washington State Bar Association # 9154
American Bar Association, International Law and Practice Section
International Bar Association
London Court of International Arbitration
Chartered Institute of Arbitrators, Fellow
Swiss Arbitration Association
No offices

12. Are you in good standing in every bar association of which you are a member:
Yes.

13. If you have ever been a judge...
I've not served as judge.

14. List up to five of your most significant professional accomplishments:

Not necessarily in order of importance:

1. started my own firm and remain in business going on 12 years
2. completed an LLM in Sustainable International Development at UW Law School while maintaining a very busy trial practice
3. achieved Fellowship in Chartered Institute of Arbitrators
4. invited speaker on Indian law and international commercial arbitration
5. numerous publications

15. Summarize up to eight of the most significant matters that you participated in as an advocate:

Not necessarily in order of importance:

Northwest Administrators v. Cutter, U.S.D.C. Seattle No. C07-0988 JCC, (2007 to present). I am defending Ralph Cutter in an ERISA claim brought by his pension fund for restitution of medical benefits paid on behalf of his wife's cancer care. His case is the most righteous of any case I've handled in 27+ years of work, and shows what the strong will do to the weak unless somebody stands up.

Hart, et al v. Alcoa, et al, King Co. No. 04-2-11378-4 SEA, (2004 to 2007). I defended a manufacturer who was wrongly sued in 210+ asbestos suits in King County. During the first of the cases to be tried, upon my recommendation, we submitted to the jury a question that resulted in the dismissal of all remaining (160+) cases. In addition to several entertaining trial events, this case was significant to me because, as I was taking the client to the airport after our victory, he said "Michael, I want you to know that I realize this approach was not in your best interests."

Lummi Indian Tribe v. Golder, et al., U.S.D.C. Seattle No. C01-1003L (1999 to 2007). I defended an archaeologist who was accused of mishandling Native American human remains that were uncovered during the construction of a sewage treatment plant in Blaine, Washington. This case brought me to Indian Law, to the law protecting cultural resources, and to my enrollment in the LLM in Sustainable International Development at UW. I have published work on Indian Law and was invited to speak about it on two occasions. One of Judge Lasnik's early rulings is reported at *Lummi Nation v. Golder Associates, Inc.*, 236 F. Supp.2d 1183 (2002). We settled this case and went to trial on a related case, *City of Blaine v. Golder Associates*, U.S.D.C. Seattle No. No. C03-0813L in May 2006, with a resulting verdict that was less than our offer of settlement. In addition to the litigation, I represented the archaeologist before his professional association, the Registry of Professional Archaeologists.

Berschauer/Phillips v. Seattle School District, 124 Wn.2d 819 (1994). I represented the architect in the trial court and two separate appeals, including the one cited here. In this case, the Supreme Court (9-0) adopted the economic loss rule, which bars tort claims in construction projects where there has been no personal injury or catastrophic property damage. I have published papers and have been an invited speaker about this case. As of February 12, 2008, this decision had been cited in 106 cases in 15 states with numerous published and unpublished decisions in Washington.

Aldrich v. Hartford Insurance Co., King Co. No. 02-2-04544-8 KNT (2002). I represented the plaintiff in a claim against her insurer to recover for earthquake damage under the earthquake coverage of her homeowner's insurance policy. This case was significant because I don't get too many opportunities to sue an insurer.

United States v. Sgt. Timothy Piatt, (1981). In this case I prosecuted a drill instructor at a general court martial for charges of battery. The case was significant because on the eve of trial the USMC Commandant visited the base and spoke to the

entire jury pool about topics that indicated unlawful command influence. The Sergeant was guilty of the crime and convicted, but the appearance of justice was lacking.

CE&C v. Orting School District, Pierce Co. No. 00-2-04958-2 (2000-2006). In this case I represented a civil engineer on a new school construction project in which the contractor claimed delay and impact damages. The case was significant for three reasons. First, as a result of the *Berschauer/Phillips* decision, contractors who lack privity of contract have no right of action against a design professional, like the civil engineer in this case. So, in order to get at the engineer's insurance policy, owners and other intervening contracting parties have taken to assigning rights upstream to the contractor, and that is what the owner and architect did here, due to the fact that my client refused to offer anything toward settlement. Second, we obtained summary judgment which was reversed by the Court of Appeals in an unpublished decision and the Supreme Court denied our Petition for Review. Third, we proceeded to trial. My client, who had been living with his decision for over 5 years, continued to resist any suggestion that settlement would eliminate all risk even though the claim was well in excess of his policy limits. But the evidence came in better than I had hoped, Judge Armijo's masterful jury instructions reduced plaintiff's chances even further, and the jury quickly found in our favor. And finally we settled the suit by waiving our right to attorney fees under the contract with the architect.

Gabrielson v McDonald, Pierce County (1989, I think). In this series of cases, I defended the Community Chapel, an evangelical church headquartered in Burien, whose leader, Reverend Donald Lee Barnett, began to preach a doctrine called "Spiritual Connections" which lead to quite a few not-so-spiritual connections. The case was significant for three reasons. First, the media publicity was considerable before and during the trial, and keeping the lid on its potential to impact a fair trial required attention. All of these events occurred at a time when other prominent preachers were falling from grace quite publicly. Second, issues of the free exercise of religion were presented through out the case. Third, we were honored to try the case with Judge Tom Swayze, who was one of the finest trial judges I've ever been before.

Educational Background

16. Undergraduate schools attended:

University of California at Irvine	1970-1972	no degree
California State University Fullerton	1972-1975	BA, Philosophy

17. Law schools attended:

Gonzaga University Law School	1975-1978	JD
University of San Diego Law School	1981	no degree
University of Washington Law School	2001-2004	LLM, Sustainable International Development
The Hague Academy of International Law	2003	no degree

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

21. Within the last 5 years, did you appear in trial court:

Regularly Occasionally Infrequently

22. Within the last 5 years, did you prepare appellate briefs and appear before appellate courts:

Regularly Occasionally Infrequently

23. Within the last five years, how often did you appear in the court for which you are applying:

Regularly Occasionally Infrequently

24. Career Experience

(a) What percentage of your appearances in the last five years was in:

(1) Federal appellate courts	_____ %
(2) Federal trial courts	<u>6</u> %
(3) State appellate courts	<u>3</u> %
(4) State trial courts	<u>90</u> %
(5) Municipal courts	_____ %
(6) District courts	_____ %
(7) Administrative tribunals	<u>1</u> %
(8) Tribal courts	_____ %
(9) Other	_____ %
TOTAL	100%

(b) What percentage of your practice in the last five years was:

(1) Civil litigation (excl. family law)	<u>95</u> %
(2) Criminal litigation	_____ %
(3) Family law litigation	_____ %
(4) Non-litigation	<u>5</u> %
TOTAL	100%

(c) What percentage of your trials in the last five years were:

(1) Jury trials	<u>95</u> %
(2) Non-jury trials	<u>5</u> %
TOTAL	100%

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- (d) State the number of cases during your total career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate for each court the following percentages: trials in which you were sole counsel or chief counsel; jury trials; and trials where you were the arbiter/decision maker.

<u>Number</u>	<u>Court</u>	<u>% as Sole / Chief Counsel</u>	<u>% Jury</u>	<u>% as the Arbiter</u>
	Municipal			
	State Dist.			
275	State Superior	100	59	40
3	Federal Dist.	100	33	
3	Administrative	100		
	Tribal Courts			
220	Other USMC	100	95	

- (e) Briefly describe no more than five significant litigation matters that you directly handled as the sole counsel. For each, please provide the name and telephone number of opposing counsel, the name of the judge or other judicial officer, and the citation (if applicable).

see attached

- (f) State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years.

see attached

Professional Experience

18. Briefly summarize the general nature of your current law practice:

We are a small civil litigation firm with three partners, five associates and 6-7 support staff. Most of our work is assigned to us by several insurance companies and the type of suits we defend cover the full range of civil litigation seen in the courts today, which include auto tort, product liability, premises, professional liability, claims made against schools and churches, environmental, boundary disputes and many others. We also take, from time to time, plaintiff's cases.

19. My typical clients:

Most of my work in the last several years involves the defense of claims made against architects, engineers or surveyors on a land development or construction project; and they would be my typical client. In the last few years I tried two very substantial construction defect cases, one on behalf of a homeowner and the other on behalf of a general contractor. In addition, I work with product liability and environmental claims and some general tort cases. Increasingly, I advise individuals or businesses as to corporate and transactional issues. For the last four years, I have pursued, without great success so far, work in the field of international commercial arbitration.

20. Any change from prior practice:

The only significant change in my practice from before is that for two years as a Marine Corps Judge Advocate I prosecuted and defended criminal cases and provided general legal clinic type advice to Marines with a problem in the civilian world.

24 (e) No more than five significant litigation matters handled as sole counsel:

Hart, et al v. Alcoa, et al, King County No. 04-2-11378-4 SEA. My opposing counsel was Zachary Herschensohn (206) 931-2237. The trial judge was The Honorable Nicole MacInnes. This was the first of a group of asbestos product liability cases to be tried that arose from the Alcoa aluminum smelter in Wenatchee. My client, Pyrotek, Inc., adamantly maintained that they never supplied an asbestos containing product to Alcoa, but plaintiffs had records from Alcoa with Pyrotek's name on them and they were able, with these documents, to defeat our motions for summary judgment. The jury agreed with my client and, based on the strength of the jury's rejection of the claims, the plaintiffs agreed to voluntarily dismiss all remaining 160+ cases against Pyrotek.

CE&C v. Orting School District, Pierce County No. 00-2-04958-2. My opposing counsel was John Guin, (509) 838-6131. The trial judge was The Honorable Sergio Armijo. This was a delay and impact claim brought by the general contractor on a new school construction project in Orting. The owner and architect settled with the contractor

and assigned their rights of action against the civil engineer to the contractor. I represented the civil engineer, who adamantly refused to offer anything to settle the case even though the potential exposure was well in excess of his insurance policy limits. We tried the case to a defense verdict.

Broadview v. TKCC, King County No. 03-2-21504-0 SEA. My opposing counsel was Michael Goldfarb, (206) 374-7090 . The trial judge was The Honorable Douglas McBroom. This was a construction defect claim brought by the owner of an assisted care living facility against the general contractor who built the project. The suit was commenced more than 10 years after construction was completed, but the Court of Appeals decision in *Architectonics v. Khorram*, 111 Wn. App. 725, 45 P.3d 1142 (2002) opened a window for claims that would be subject to a discovery rule, and this case fell in that window. There was no viable defense other than the statute of limitations and that is the basis on which we tried the case. The case was notable for very interesting legal and factual issues, the suicide of my associate who was working up the case, and a dramatic interruption by one of the jury during trial.

Jain v. Fowler, King County No. 00-2-17564-7SEA. My opposing counsel was Scott Johnson (206) 626-6000 . The trial judge was The Honorable Terrence Lukens. In this construction defect claim I represented the seller of a 16,000 square foot home on Lake Washington that sold for \$12,999,999 to Naveen Jain, who later sued for fraud, breach of contract and negligence when he discovered extensive dry rot in the walls of the house. The claim was for over \$7 million and the plaintiffs had three lawyers and two paralegals at trial against just me. The jury took very little time to render a defense verdict and, after an unsuccessful appeal, we made a full recovery of attorney fees and costs.

Pettit v. Dwoskin, King County No. 99-2-17341-4 SEA. My opposing counsel was Steve Recor (425) 451-1400. The trial judge was The Honorable James Doerty. In this case I represented a home owner in claims made by a social guest who was seriously injured when a deck collapsed. The trial was interrupted by the Nisqually earthquake, which rendered the King County Courthouse unusable for some time; so we finished the trial in a room at St. Mark's Cathedral. My defense verdict was reversed in the Court of Appeals. *Pettit v. Dwoskin*, 116 Wn. App. 466 (2003). We settled the case.

(f) Experience in adversary proceedings before administrative boards:

In the last five years, I represented an archeologist who was dismissed from the Registry of Professional Archeologists; and I assisted a civil engineering firm with a citation from the Department of Labor and Industries following a worker's death on a project.

25. Legal non-litigation experience that enhances my qualifications:

I am a Fellow in the Chartered Institute of Arbitrators, which required me to complete a reasonably rigorous program of oral assessment, several years of experience serving as arbitrator, sponsorship from senior arbitrators, and an award writing examination. In international commercial arbitration, arbitrator's awards are required to be reasoned decisions. All appellate judges should undertake this training in how to write a reasoned decision.

In 2004 I completed an LLM in Sustainable International Development at the University of Washington. Two aspects of this program will make me a better judge or justice. First, in this LLM program, the study of other legal traditions caused me to learn more about our own legal tradition and its strengths and weaknesses. Second, it was a good thing to be reminded at age 52+ that there was a lot more out there to learn about.

Over the years, many clients that came to me as a defendant assigned to me by their insurance company have come back seeking all manner of advice about business, family and personal issues. I have found this aspect of my practice to be among the most rewarding because I really like helping real people with real problems. I think our judges should have this kind of broad range of experience helping real people with real problems, and if there was a bit more of this on the court, the decisions would improve.

Writing for publication has helped me improve my ability to communicate clearly in writing, and I think that is an important requirement if one wants to be a judge.

26. Officer or director of any business: None, other than my own.
27. Chairmanship of bar association committees or professional societies: None

Judicial Interest and Experience

28. Why I should be appointed/elected and why I am seeking a judicial position?

I am an experienced trial lawyer with over 27 years of helping real people with real problems in the state and federal trial and appellate courts, and I believe the quality of the decisions would improve if there were more judges who come to the bench with this background.

29. My judicial philosophy:

As to theory: the most important role of the courts is to protect the people from the power of government and the vested interests. As to practice: a good judge reads the submissions, listens to what is said, treats the parties and counsel with respect, and then makes a decision.

30. Have you ever held a judicial office or been a candidate? No.

31. Have you ever held a public office or been a candidate? No

32. Experience as a neutral decision maker:

I have served as arbitrator in over 25 arbitrations. The two most recent that went to hearing are:

Seattle Therapy Specialists v. Issaquah Care Center, et al., King County Cause No. 05-2-22015-5 SEA. Counsel: Julie K. Fowler (425- 990-9975), William L. Cameron (026-624-7990), David Hancock (206-624-8300).

Arthur v Daviscourt, King County No. 05-2-37204-4 KNT. Counsel: Roger S. Wilson (253-572-2440), David J. Wieck (425-391-7427)

Community and Civic Activities

33. Community and civic activities:

I was an Assistant Den Leader when my son was in the Cub Scouts more than 10 years ago, and I served as timer and stroke and turn judge at my children's swim meets.

I have been asked to serve on the Seattle Indian Health Board, which is a state licensed and nationally accredited non-profit, multi-service community health center serving the Native American community, and I believe my nomination will be approved on March 22, 2008.