

IN THE DISTRICT COURT OF ELLIS COUNTY, KANSAS

In the Matter of:

GENE F. ANDERSON,
An Ellis County Attorney.

Case No. o8 CV-166

BRIEF

COME NOW, the members of the Ellis County Bar Association and for their brief in the Matter of Gene F. Anderson, an Ellis County Attorney state the following:

I. FACTS;

- a. Gene F. Anderson graduated from Washburn University of Topeka in 1973 and was awarded a Juris Doctorate from that university.
- b. Gene F. Anderson was admitted to the Kansas bar in 1974.
- c. Gene F. Anderson practiced law in Hays, Kansas with among others, the firms of Ryan, Kent, Wichman, Walter & McClymont; then with Kent, Wichman & Anderson; then until his death in 2007, with Anderson & Wichman.
- d. Gene F. Anderson served as Hays Municipal Judge commencing in 1983 until his death.
- e. As the result of and in connection with, the practice of law in Hays, Ellis County, Northwest Kansas, North Central Kansas, and throughout the State of Kansas, Gene F. Anderson impacted the lives of the attorneys he practiced with and against, the judges before whom he appeared, and the members of the county and law enforcement administration.

II. ARGUMENTS

a. Attached to this brief are Exhibits A through G which exhibits are comprised of letters, memorandum and documents submitted by attorneys with whom Gene F. Anderson interconnected.

b. Attached to this brief as Exhibits 1 through 30, the exhibits herein described consist of photographs of Gene F. Anderson in settings not connected with the practice of law, but illustrative of Gene F. Anderson's other and additional life interests.

c. Contained in the records of the Hays Municipal Court are hundreds of case files wherein Gene F. Anderson rendered preliminary and final decisions.

d. Contained in the records of the Ellis County District Court are hundreds of files wherein Gene F. Anderson served as attorney for Plaintiffs, for Defendants, and for other parties to such cases.

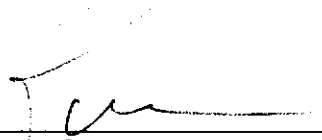
e. Contained in the records of the Supreme Court of Kansas and the Kansas Court of Appeals are numerous files and briefs presented to such courts by Gene F. Anderson. This Court should take judicial notice of all such cases and files.

f. The author of this brief does hereby assert the position that the attachments and the files to which this Court take notice establish the professional life of Gene F. Anderson as one that exemplified honesty, integrity and excellence. The author further alleges that this Ellis County Bar Association was benefitted in extraordinary fashion by the intelligence and clarity of Gene F. Anderson's pleadings, briefs and arguments.

III. CONCLUSION

a. The author prays that this Court enter findings of fact and conclusions of law that establish that Gene F. Anderson was a respected and honorable member of this bar and that his death was a severe loss to this bar and to this community.

SUBMITTED BY:



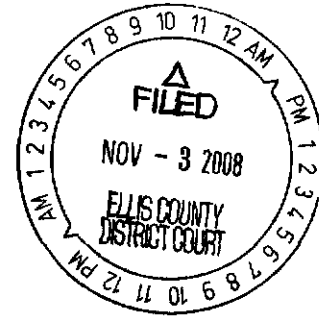
Ross Wichman - 08578
P.O. Box 1700
Hays, KS 67601
(785) 625-6519

GENE F. ANDERSON

By

Ed Bouker

District Judge, 23rd Judicial District



This is written as a memorial to my great, good friend, Gene F. Anderson, lawyer, judge, newspaper reporter, historian, civil libertarian, student, teacher, citizen, husband, father, grandfather, and friend, whose death, while more than a year in the past, continues to affect me and his friends almost daily.

This is written on the occasion of a memorial to Gene, presented in the tradition of the Ellis County Bar by his colleagues, in open court, to be filed and made a part of the records of this court. Because this is the occasion, I will concentrate on a small part of Gene's distinguished, varied and accomplished career as a lawyer. It is fortunate that I have an excuse to thus limit my comments concerning this complex man, since, as mentioned in the first paragraph, any attempt to note, let alone do justice to, his many roles, interests and passions in life would be impossible.

Gene was very proud to be a member of the legal profession. He chose to be a part of the profession after observing lawyers and the courts close at hand as a newspaper reporter. Once again, much could be written about Gene's passion for the law, his ability as an attorney, and the facet of his character which compelled him to seek justice, even if it meant sometimes doing so in the face of public disapproval. However, since the limited space and purpose of this remembrance will not allow a full recitation of his many legal accomplishments, I will simply mention two which, for different reasons, are prominent in my memory.

The first is a case in which Gene's client was charged with rape, and I was the presiding judge at trial. This case illustrates several traits of Gene's character, as a lawyer and as a person. The defense did not deny that sexual intercourse between the defendant and the complaining witness had occurred. The issue was whether that act was consensual or forced. It was a hard-fought case, with much at stake for Gene's client.

The complaining witness testified, in fact reaffirmed several times, that she had never claimed to have been raped at any other time in the past. In saying this, she was not aware that Gene was meticulous, tireless and intelligent in preparing his cases. In an almost unbelievable display of case preparation, Gene had discovered that the complaining witness had, in the past, written a letter to a boyfriend, at the time an inmate in a county jail in southeast Kansas. Although it had been several years since the letter was written, Gene, knowing that mail addressed to an inmate is inspected by jail personnel, decided he should take a long shot and follow up on this information.

He interviewed a man who had been on the jail staff at the time the letters were sent, and who was still employed by law enforcement. This man had, for some reason, kept the letter, which was read to the jury in our case. In the letter, the complaining witness, who had denied ever claiming to have

been raped before, passionately described an alleged rape to her boyfriend/inmate, stating how badly she wanted him to be released so he could protect and comfort her. Needless to say, this had a devastating effect on her credibility in our trial.

This case, while quite serious, had its lighter moments. One came when Richard Parsons, our retired court reporter, acting as bailiff, was asked by Gene to read the letter I just mentioned. The experience of Richard, an older, distinguished male, attempting to be dispassionate, reading this passionate, in fact histrionic, letter made it difficult for all of us to keep a straight face during its reading.

In another moment which has found its way into local bar folklore, Tom Drees, the prosecutor in this case, was making his impassioned closing argument to the jury. One of the subtexts of the case was whether the defendant, or anyone, could have removed the complaining witness's jeans while she was reclining and the defendant was straddling her at waist level. Gene argued this was impossible, and Tom was attempting to convince the jury that it was indeed quite possible.

Tom grabbed the jeans, in evidence as a prosecution exhibit, and in a move which came as a shock to all in the courtroom, including, I suspect to this day, Tom himself, Tom walked over to Gene's counsel table, situated closest to the jury, and with his forearm swept Gene's files and other papers off the table, into Gene's lap, laid the jeans on the table, climbed onto the table, straddled the jeans, and proceeded to give the jury a reenactment of his version of the events of the evening in question. The shocked look on Gene's face, and the look on Tom's as he tried to leave the table with his dignity intact are priceless memories of that moment.

During jury deliberations, which seemed to take forever, an outbreak of raucous laughter was heard emanating from the jury room. After a defense verdict, the jurors were asked about the laughter. They explained that they decided to do an experiment of their own concerning the possibility of the jeans being removed in the manner asserted by the prosecution. A female juror slipped on the jeans over her own clothing, and lay on the jury table, while a male juror climbed onto the table and straddled her. Once he was situated, the woman looked up and asked him: "If we are going to do this, don't you think I should at least know your name?" After hearing this, we all understood the laughter.

This case illustrated Gene at his finest as an attorney. He had carefully, meticulously and thoroughly prepared. He made the most of this preparation through his skill at trial. After the trial, it was reported that a couple of the jurors waited for the defendant outside the courthouse, and at least one put her arm around his shoulder, expressing her sympathy and sorrow that he had been required to face what she considered a patently false accusation.

The other case I wish to mention is also a case in which I presided. Gene's client was a professor at Fort Hays State University. He and the University entered into a phased retirement agreement, allowing the professor to work part time for five years instead of retiring outright. In the second year of the contract, a disagreement arose between the administration of the professor's department and the professor, leading to the professor's termination.

Gene, on the professor's behalf, filed the appropriate paperwork to begin the administrative appeal procedure available through the University. That process was followed in due course, with the result that the actions of the University administration were affirmed. Gene then filed an appeal to Ellis County District Court under the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions. The case was duly and skillfully argued by both sides. I ruled in favor of the professor by virtue of language in the phased retirement contractual papers, which I held could not be, giving deference to the University's findings as I was required to do, interpreted to uphold the termination of the professor. The University appealed to the Kansas Court of Appeals.

This case, *Guss v. Fort Hays State Univ.*, 38 Kan. App. 2d 912 (filed January, 2008), was one of two cases which Gene won subsequent to his death. The other, from the 15th Judicial District, is cited as *In re Parentage of Brown*, 39 Kan. App. 2d 26 (filed February, 2008).

We, his friends and fellow lawyers, most of whom have still not removed Gene's email address from our address books, circulated emails as these decisions came down, remarking how appropriate it was that Gene's skill, intensity, professionalism and dedication to the law allowed him to win cases, even after his demise.

As a final note to all of this, I will mention something that really has nothing to do with the law, but everything to do with Gene as a person whose interests were varied and often at odds with mainstream society, including those of most of his close friends and colleagues. Gene had a passion for the singer Edith Piaf. We would often sit with a painful lack of interest as Gene would regale us with tales of her talent and descriptions of her music. He even made us listen to some of it once or twice. A song we knew almost exclusively from Gene's obsession was *La Vie en Rose*.

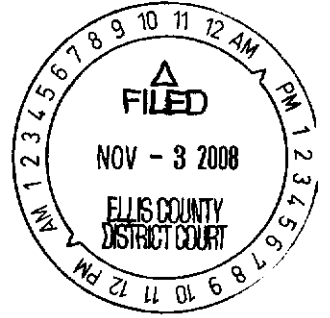
Well, after Gene's death, a movie titled *La Vie en Rose* hit theaters. It is a biography of Edith Piaf. The movie received critical acclaim, and Marion Cotillard, the actress who plays Edith Piaf, won an Academy Award as best actress for the role. The reason I bring this up is that it occurred to me, and to several of his friends, that Gene had hit the trifecta with this movie. After his death he had won two appellate cases, and by virtue of *La Vie en Rose*, he had rubbed our collective noses in our lack of cultural appreciation and sophistication – sort of an appellate win of another sort. I suspect that, despite his love for the law, he would have appreciated this last little item the most.

CLINKSCALES ELDER LAW PRACTICE, P.A.

J. RANDALL CLINKSCALES

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October 31, 2008

Ross J. Wichman
Anderson and Wichman
P.O. Box 1700
Hays, KS 67601

Dear Ross:

Please accept this as my submission for Gene's Memorial next Monday:

I submit this writing to the 23rd Judicial District as a memorial to a most honored member of our Bar, Gene F. Anderson. Unfortunately, my eloquence in this memorial falls short of fully expressing my admiration, respect and love for our departed friend.

As counsel, Gene was more than willing to fight the difficult causes – causes that involved fundamental rights more important than the mere facts of a case he had pending before the court. Whether it was defending someone in a rape case, a professor embattled with a local university, a teacher fighting for due process, or fighting against the mixing of church and state – all socially unpopular positions to defend – Gene ignored, or at least looked past, the adverse injury or impact such representation would have on himself as a person, a lawyer or a citizen of the community.

Instead, Gene would look to certain principles that he viewed as so important that they overshadowed the controversial case and demanded protection to the fullest extent of his abilities.



MEMBER
LIFE CARE PLANNING LAW FIRMS ASSOCIATION

October 31, 2008

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I have the privilege of the possession of a book from Gene F. Anderson's library. It is a collection of writings by Thomas Jefferson. One of the writings is a letter from Jefferson to James Madison regarding the need and necessity of a Bill of Rights to the Constitution. Madison had expressed concern that a Bill of Rights would interfere with the orderly operations of government. In his response, Mr. Jefferson stated:

The inconveniences of the [Bill of Rights] are that it may cramp government in it's useful exertions. But the evil of this is short-lived, trivial & reparable. The inconveniences of the want of a [Bill of Right] are permanent, afflicted & irreparable...[The Bill of Rights] should therefore guard us against. . . abuses of power...

Letter to James Madison, March 15, 1789,
by Thomas Jefferson

I firmly believed that Gene, more than any lawyer with whom I have practiced, believed that the protections and prohibitions embodied in the Bill of Rights are so fundamentally important to defend that such defense is worthy of any inconveniences occasioned on our practice that we may suffer defending those fundamental protections. We should all strive for such a conviction.

I am honored to be able to call Gene F. Anderson a friend and a fellow member of the most noble of all professions.

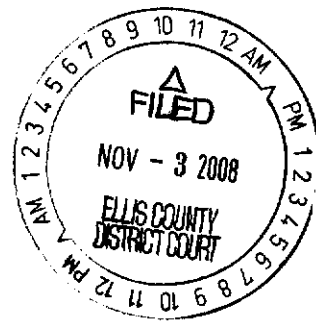
Very truly yours,

/s/ Randy

J. Randall Clinkscales



MEMBER
LIFE CARE PLANNING LAW FIRMS ASSOCIATION



LAW OFFICE *antidotes*

GREGORY E. SAINDON, P.A.

P.O. Box 108
824 Washington St.
Ellis, KS 67637-0108
Phone # 785-726-3129
FAX # 785-726-3624
e-mail: saindonpa@gbta.net

Gregory E. Saindon

**Olavee F. Raub
Max Eulert**

October 31, 2008

Ross Wichman
1400 Main Street
P O Box 1700
Hays, KS 67601

RE: ***Memorial of Gene F. Anderson***

Dear Ross:

Over the years I had many opportunities to work with Gene on different types of cases. Unfortunately I have no specific antidotes to add to all of the other information that you will be receiving from other attorneys in the area. However, I did want to add my thoughts.

To say that Gene was a good attorney is an understatement. In my experience with Gene his competency as an attorney was never in doubt, but even more importantly was the knowledge that when you were working with Gene, no matter what side of the case you were on, you could trust Gene's integrity and never had to consider the possibility of Gene doing something in any way inappropriate. Gene put simply was a good man who had a great deal of compassion for the people with whom he was dealing. He applied those attributes of himself to everything that he did including his representation of clients in matters at the bar, his decision making and sentencing of people before him in Hays Municipal Court.

I wish Gene's family to know that he was universally liked and admired by the people in his profession who took the time to get to know him. He was an uncommonly intelligent individual who was always interesting to converse with. I spent many lunch hours sitting with Gene at a local eating establishment and listening to his thoughts about whatever the current issue of the day was. His thoughts were many times probative and provocative. However, I had

the certain feeling that Gene was many times simply playing the devil's advocate to try to make us look at any given issue from all sides.

He was a man that is greatly missed by the local bar association and his friends. His family should rest assured in the knowledge that he was considered to be one of the good guys in the Ellis County Bar.

Please convey my thoughts and feelings about Gene to his family along with my sympathy for their loss and my best wishes.

Sincerely,
GREGORY E. SAINDON, P.A.

Gregory E. Saindon

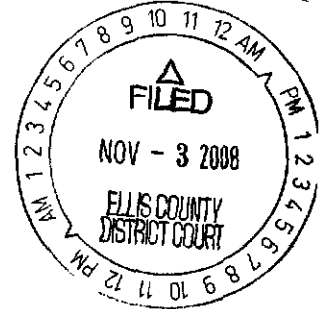
GES/m



FORT HAYS STATE UNIVERSITY



Ross Wichman
Anderson & Wichman
1400 Main Street
Hays, KS 67602



Dear Ross,

I appreciate your leadership in memorializing Gene Anderson through the trial brief. I would like to contribute this letter. Gene was not only a lawyer and judge, he was a teacher. He was an adjunct professor at Fort Hays State University. He taught INT 628 Media Law and Contemporary Society (and earlier versions and names of this class) for the Communication Department and Information Networking and Telecommunications Department at Fort Hays State University as an adjunct faculty member.

Gene was very well thought of by his students. He had a true interest and love of journalism and a passion for freedom of the press. Alumni have told me many years later that the course they took from Gene Anderson was one of the most interesting and stimulating that they complete during their college career. They also remarked on the value of the course in their day-to-day professional decision making as print or electronic media journalists. When I thanked Gene once for devoting time to teach part-time, he told me he greatly enjoyed teaching the class and that teaching helped him sort out some ideas and to think through some issues himself.

The early departure of Gene Anderson from this world deprived the Hays community of a man who left a very positive impact in a wide variety of ways. He is missed.

Sincerely,

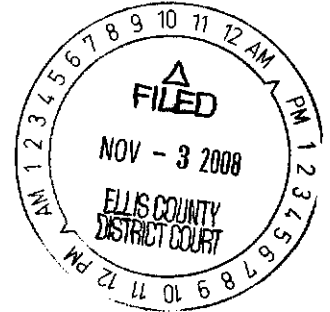
Mark Bannister
Chair, Department of Information Networking and Telecommunications

cc Dr. Edward Hammond
Dr. Larry Gould
Dr. Paul Faber
Dr. Chris Crawford



Partners: Robert F. Glassman (1922-2005)
John T. Bird, Glenn R. Braun, Gregory A. Schwartz
Associate: Carol M. Park

October 29, 2008



VIA FAX: (785) 625-8651

ROSS WICHMAN
1400 Main Street
PO Box 1700
Hays, KS 67601

RE: Memorial of Gene F. Anderson

Dear Ross:

Like most members of the Bar, I have many fond memories of Gene. He was an honest, ethical, and worthy adversary. Gene and I had some highly contested cases but as we left the courtroom, did so as friends. Most importantly, Gene was a lawyer whose "word was his bond." His professionalism and practice were a credit to the local bar and improved the stature of lawyers in the community and the State. He will be sorely missed.

Each time I contemplate legal events involving Gene, my thoughts always come back to the Faulkner custody case. Gene represented Mrs. Faulkner and Tom Boone, her husband. It was a contentious custody and parenting time case with Mr. Faulkner requesting residential custody due to his ex-wife's move to the State of Wyoming. Both parties requested the appointment of a GAL and Steve Flood asked me to serve. The case was then set for an all day trial.

As can be imagined, Tom Boone was aggressive in his presentation of evidence while Gene took a more calm and tactical approach to the issues. Since Mr. Faulkner had made the motion, he presented his case first and late in the day, Mrs. Faulkner, Gene's client, testified. Due to the tension that increases in an all day custody trial, Tom Boone had become very vocal in his cross examination of Gene's client. At one point, Tom was firing questions and not even giving Mrs. Faulkner an opportunity to answer and Gene started objecting. Voices were raised and it was becoming quite heated. Finally, Tom asked a question and Gene yelled out "OBJECTION!" Tom Boone stopped and a silence came on the courtroom. Flood asked Gene the basis for the objection. There was a long pause, and Gene calmly responded, "That is the stupidest question I have ever heard." Flood promptly sustained the objection which caused all three counsel to laugh and which calmed down Tom Boone so that the trial could finish on a more civil tone. Tom Boone, to his credit, apologized in the courtroom for his aggressive questioning and the case proceeded to conclusion.

October 29, 2008

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I have often told that story to lawyers and it always gets a chuckle. It shows Gene's ability to bring calm to chaos and demonstrated his control of situations through the use of his keen wit.

Gene was proud to be a lawyer. We should all take pride in having been associated with him in the practice of law and voice our appreciation at having Gene as our colleague and friend.

Respectfully submitted,

GLASSMAN, BIRD, BRAUN & SCHWARTZ, L.L.P.

By 

GLENN R. BRAUN
Attorney at Law

GRB/tdp

**GLASSMAN, BIRD, BRAUN & SCHWARTZ, L.L.P.
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DATE: October 28, 2008

PLEASE DELIVER THE FOLLOWING 3 PAGE(S), INCLUDING COVER TO:

NAME: Ross Wicham

COMPANY: Anderson & Wicham

ADDRESS:

CITY:

STATE:

ZIP:

FAX NO: (785) 625-8651

RE: Memorial of Gene Anderson

FROM: Glenn R. Braun **OF:** GLASSMAN, BIRD, BRAUN & SCHWARTZ, L.L.P.

Copy of this transmission WILL WILL NOT be followed with mailed copy.

IF YOU HAVE ANY PROBLEMS IN THE TRANSMISSION OF THIS MATERIAL PLEASE CALL:
Glassman, Bird, Braun & Schwartz, L.L.P. at (785) 625-6919 voice (785) 625-2473 fax.

COMMENTS:

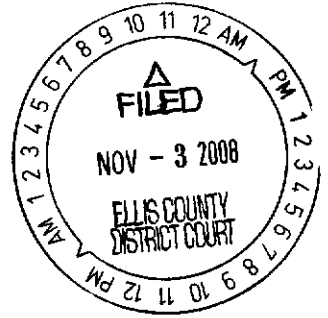
**RYAN, WALTER
& McCLYMONT**

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October 24, 2008

Ross Wichman, Esq.
ANDERSON & WICHMAN
P.O. Box 1700
Hays, KS 67601

Dear Ross:

Thank you for your letter of October 10, 2008.

My personal, deeply felt submission in response to your letter concerns a matter about which you know full well and were deeply involved in yourself. You, Gene, Dan and I always remained good friends, despite the breakup of our firm years ago. While I could draw countless examples from our friendships, the cardinal event was the role that you and Gene played in the adoption of our son Grant. He is truly the light of our lives and is a kind, calm, compassionate and humorous young man; it is our privilege to have him in our lives.

I often think of how an offhanded conversation between you and me, followed by your talk with Gene, and your joint efforts, resulted in the possibility of that adoption, which eventually worked out so wonderfully for us.

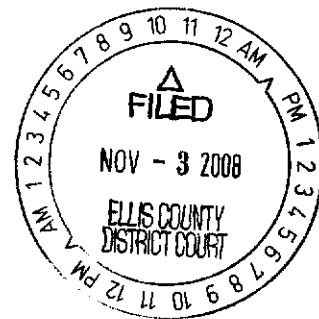
As well, my wife and I remember Gene and his secretary meeting us with a video camera and following us around video taping that red letter day, including when we first met and held our son.

Gene was always a source of good humor and good advice. I appreciate the opportunity to respond to your letter.

Sincerely,

A handwritten signature in black ink, appearing to be the name "John".

John



STAN BASGALL
ATTORNEY AT LAW
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785.625.4747

FAX 785.628.7000

October 27, 2008

Mr. Ross Wichman, Esq.
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Sent Via FAX#: (785) 625-8651

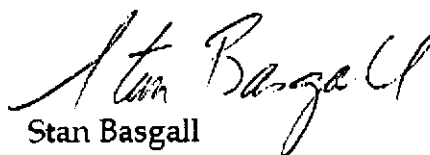
RE: Gene F. Anderson - Trial Brief

Dear Ross,

Please find enclosed an *Order* which you may submit as part of that trial brief to Gene F. Anderson's Memorial.

This matter and *Order* evidences that Gene was a zealous advocate.

Sincerely,


Stan Basgall

SB/rsb

IN THE DISTRICT COURT OF ELLIS COUNTY, KANSAS

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In the Matter of the Marriage of ... PM 12 52

SANDRA COSGRIFF,

Plaintiff,

v.

... COURT

Case No. 95 D-11

STEVE COSGRIFF.

Defendant.

ORDER

Now, on this 25th day of October, 1995, the above entitled matter comes before the Court for hearing. The petitioner, Sandra Cosgriff, appears in person and by her attorney, Gene F. Anderson, attorney at law, Hays, Kansas. The respondent, Steve Cosgriff, appears in person and by his attorney, Stanley Basgall, attorney at law, Hays, Kansas.

Thereupon the Court takes testimony throughout the day, and at the close of testimony, takes the matter under advisement for a later determination.

Now, on this 2nd day of November, 1995, the Court makes the following findings and orders. The parties herein were married in Padukah, Kentucky, in December of 1971. There have been five children born to the marriage, four of whom are still minors. All five of the children live in the family home in Hays, Kansas with their mother, the petitioner herein. The respondent presently resides in Fargo, North Dakota.

The contested issues before the Court is the amount, if any, of child support to be paid by the respondent to the petitioner; the amount of maintenance, if any, to be paid by the respondent to the petitioner; division of property; and the payment of attorney fees and costs of expert witnesses.

Since the parties were married in 1971, the respondent has obtained the following educational degrees: bachelor of arts degree in biology, master's degree in the health area, and a doctor's degree in institutional research. In addition, in recent years the respondent has

-2-

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2 obtained a further 35 hours in the area of education administration. The petitioner, Sandra
3 Cosgriff, has a bachelor's degree in speech and English, but she has never taught and is not
4 certified to teach in any state.

5 Since the marriage, the respondent has had jobs in the educational field, including that
6 of high school teacher, college professor, and assistant director of a program called Institutional
7 Research. Apparently Institutional Research, at least under the circumstances where the
8 respondent was employed, required the extensive use of a keyboard connected to a computer.
9 In performing the services required for Institutional Research, the respondent has earned as much
10 as \$40,000.00 per year. The petitioner has not worked in her field, but has maintained some
11 employment in the last few years in more or less minimum wage jobs.

12 The evidence is clear that the respondent is no longer able because of disability and
13 injury, to perform a job that requires extended use of a keyboard. He has re-educated himself
14 to the point that he is capable of maintaining employment as a teacher or high school
15 administrator of one type or another. The respondent's present income is in the \$20,000.00 per
16 year range. I find his present monthly income to be \$1,619.00 per month. With the defendant's
17 experience and education, the Court finds from the evidence presented, the defendant should be
18 easily capable of earning \$40,000.00 a year as a high school administrator. The respondent has
19 filed numerous job applications around the country and the Court is convinced that it is only a
20 matter of time that the respondent should be able to gain employment in that salary range.

21 With some small amount of preparation, the petitioner also should be able to get a
22 position as a secondary school teacher. She has her degree and needs only to become certified
23 in Kansas or some other state and should be easily capable of earning an annual salary in the
24 \$25,000.00 per year range.
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2 The parties have agreed that the four minor children should remain in joint custody of
3 the parties with the petitioner to have residential custody, and the respondent to have reasonable
4 visitation. The Court ratifies and endorses that custody arrangement.

5 The Court will require that the respondent pay child support to the petitioner through the
6 Clerk of District Court's office in Hays, Kansas, based upon Worksheet 'A' attached hereto.
7 The Court has based the Worksheet 'A' on a monthly income for the petitioner of \$940.00 and
8 a monthly income of the respondent at \$1,619.00. The Worksheet 'A' attached hereto, reflects
9 that the respondent's child support obligation should be \$506.00 per month. Any medical bills
10 for the four children not covered by health and dental insurance will be the joint obligation of
11 the parties and they are to pay that in proportion to their respective incomes as set out on Line
12 D. 2. of the Worksheet 'A' attached hereto. As the parties will note, the Court has granted the
13 respondent an overall financial reduction of child support in the amount of \$200.00 a month, in
14 view of his present position of job hunting. The child support shall be subject to review upon
15 the commencement of maintenance.

16 The Court now takes up the matter of the allowance of maintenance requested by the
17 petitioner to be paid by the respondent. The Court has considered the ages of the parties, their
18 present and prospective earning capacities, the parties' individual needs, the time, source and
19 manner of acquisition of property, family ties and obligations, and the parties overall financial
20 situation. It certainly appears that this is a case where the petitioner should be allowed
21 maintenance from the respondent. The evidence is clear that the respondent has a much greater
22 earning capacity than the petitioner. The marriage has lasted for 24 years during which time
23 the petitioner has worked occasionally, but in general has raised the couple's five children and
24 continues to do so. The respondent has a much greater educational background than the
25 petitioner and there is little likelihood that the petitioner will in the near future improve that
26 education. The respondent is not the custodial parent and therefore is free to move around the
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2 country to accept the best job situation available. The petitioner has four children to raise, has
3 a home established in Hays, Kansas, and therefore her ability to move and accept employment
4 in other parts of the country is limited in that degree.

5 The Court intends to set maintenance at a figure based on what the petitioner and the
6 respondent could be earning if they were working to their capacity. The respondent will
7 undoubtedly in the near future have a job as an educational administrator and should be earning
8 in the range of \$40,000.00 per year. The above finding is based upon the testimony of various
9 witnesses throughout the hearing. The petitioner, with the acquisition of some additional hours,
10 should be able to be certified as a teacher in Kansas and in other states. With that certification,
11 she could be earning in the neighborhood of \$25,000.00. With these findings in mind, the Court
12 set maintenance in the amount of \$300.00 per month payable by the respondent to the petitioner
13 The Court finds that the payment of \$300.00 per month should be paid by the respondent to the
14 petitioner for a period of 96 months.

15 In view of the parties' present circumstances, those circumstances being the fact that
16 neither one of the parties has the job they need to maximize their earning capacity, the Court
17 finds then that the payment by the respondent to the petitioner should commence on October 1,
18 1996, and the same should be paid through the Clerk of District Court's Office, Box 8, Hays,
19 Kansas. The Court is deferring the commencement of the maintenance payments to give the
20 respondent ample opportunity to get a position commensurate with his abilities. It is the Court's
21 requirement that the 96 months should run from October 1, 1996.

22 Maintenance shall terminate upon the death of either party, or upon the remarriage or co-
23 habitation of the plaintiff.

24 The maintenance amount shall be subject to modification or extension upon proper
25 motion.

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The Court now takes up the matter of the division of property and debt. The Court has reviewed the factors set out in K.S.A. 60-1610b. 1., and finds that the property of the marriage should be divided as per the attached Appendix 'A'. Its obvious that the division of property is not equal, but the Court feels that under the circumstances, it is equitable. It is the Court's feeling that the petitioner, who has demonstrated herself to be a profligate spendthrift, particularly where her children are concerned, has squandered a considerable amount of the family's assets through her spending habits. In view of these findings, the Court finds that the unequal distribution of the property is warranted and just.

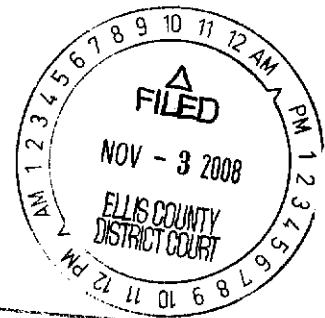
In so far as division of debts are concerned, the Court finds that the petitioner and the respondent should be jointly responsible for all debts incurred on or before January 18, 1995. Any debts incurred after that date by either party, should be the individual debt of the person who incurred the same. Each party is to pay their own lawyer and experts.

The Court finds that the parties are indeed incompatible, and each of the parties is granted a divorce from the other on the grounds of incompatibility.

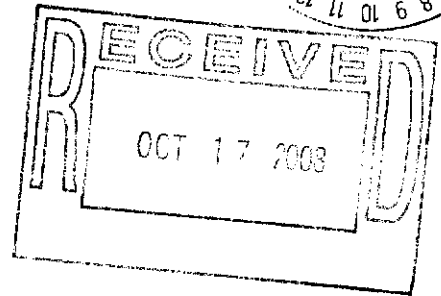

TOM SCOTT
District Judge, Hays, KS

cc: Gene F. Anderson
Stan Basgall

Law Offices Of
THOMAS C. BOONE



October 16, 2008



Ross Wichman
Attorney at Law
P.O. Box 1700
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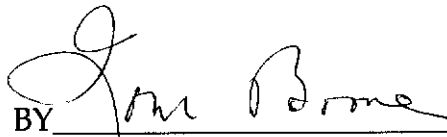
RE: Memorial of Gene F. Anderson

Dear Ross:

When Gene was a reporter for the Hays Daily News, he asked me to write a letter of recommendation to Washburn Law School for him which I did.

Sincerely,

LAW OFFICE OF THOMAS C. BOONE

BY 

THOMAS C. BOONE

TCB/rb

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