

**CONFIRMATION HEARINGS ON FEDERAL  
APPOINTMENTS**

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**HEARINGS**  
BEFORE THE  
**COMMITTEE ON THE JUDICIARY**  
**UNITED STATES SENATE**  
ONE HUNDRED THIRTEENTH CONGRESS  
SECOND SESSION

SEPTEMBER 9, SEPTEMBER 17, NOVEMBER 13, and DECEMBER 10, 2014

**Serial No. J-113-1**

**Part 10**

Printed for the use of the Committee on the Judiciary



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**NOMINATIONS OF HON. JORGE LUIS ALONSO,  
NOMINEE TO BE DISTRICT JUDGE FOR  
THE NORTHERN DISTRICT OF ILLINOIS;  
JOHN ROBERT BLAKEY, NOMINEE TO BE  
DISTRICT JUDGE FOR THE NORTHERN  
DISTRICT OF ILLINOIS; HON. AMOS L.  
MAZZANT, III, NOMINEE TO BE DISTRICT  
JUDGE FOR THE EASTERN DISTRICT OF  
TEXAS; ROBERT LEE PITMAN, NOMINEE TO  
BE DISTRICT JUDGE FOR THE WESTERN  
DISTRICT OF TEXAS; AND ROBERT WILLIAM  
SCHROEDER, III, NOMINEE TO BE DISTRICT  
JUDGE FOR THE EASTERN DISTRICT  
OF TEXAS**

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**TUESDAY, SEPTEMBER 9, 2014**

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10 a.m., in Room SD-226, Dirksen Senate Office Building, Hon. Dick Durbin, presiding.

Present: Senators Cornyn and Cruz.

**OPENING STATEMENT OF HON. DICK DURBIN,  
A U.S. SENATOR FROM THE STATE OF ILLINOIS**

Senator DURBIN. The Judiciary Committee will come to order. We will consider five highly qualified nominees to the Federal bench.

They are Jorge Luis Alonso, who has been nominated to be a District Judge for the Northern District of Illinois; John Robert Blakey, also nominated for the Northern District of Illinois; Amos L. Mazzant, III, nominated for the Eastern District of Texas; Robert William Schroeder, III, also nominated for the Eastern District of Texas; and Robert Lee Pitman, nominated for the Western District of Texas.

At these hearings, it is traditional for nominees to be introduced before the Committee by Senators from their home States. I will note that the Ranking Member will soon join us.

We are going to proceed with introductions. I am going to start by introducing Jorge Alonso from Illinois, and then turn to my colleague, Senator Mark Kirk, who will introduce Jack Blakey. My colleagues from Texas, when they arrive, will make their introductions.

I am pleased to introduce Judge Jorge Alonso before this Committee. Judge Alonso has been nominated to fill the vacancy in the Northern District of Illinois that will be opening up on November 16, when Judge Ronald Guzman takes senior status.

Since 2003, Judge Alonso has served as an Associate Judge for the Cook County Judicial Circuit. Currently in his third appointed term, he presides over felony cases at the Cook County Criminal Court Building.

As a State trial court judge, Judge Alonso has presided over hundreds of cases that have gone to verdict or judgment, including at least 88 jury trials. He also presides over the Women's Justice Mental Health Call in Cook County. Judge Alonso helped to create this program and it provides intensive support and services to women in the justice system who have suffered from trauma and addiction.

Prior to serving as a State court judge, Judge Alonso served for 12 years as an Assistant Public Defender in Cook County. He initially handled civil proceedings in the Child Protection Division of the Public Defender's Office, and later worked in the Juvenile Justice Division and the Felony Trial Division. As a public defender, he participated in approximately 30 jury trials and 150 bench trials.

In addition to his substantial courtroom and judicial experience, he has an admirable record of service in the Chicago community. Among his activities, he serves on the boards of the Daniel Murphy Scholarship Fund, providing scholarships and support to low-income Chicago students, and the Cristo Rey Jesuit High School in Chicago's Pilsen neighborhood. He also works as judicial interviewer with the Lawyers Assistance Program, which assists members of the bar who are struggling with mental health or addiction issues.

Judge Alonso received his undergraduate degree from the University of Miami and his law degree here at the George Washington University Law School.

To put it simply, Judge Alonso is an outstanding nominee. He has the experience, the integrity, and the judgment to be an excellent Federal Judge.

In Illinois, we have a bipartisan process which Senator Kirk and I have initiated to select judicial candidates and send their names to the White House. Under the system, I recommended Judge Alonso for the Federal bench. I thank my colleague, Senator Kirk, for signing a blue slip signaling his support for that nomination.

Judge Alonso has a few more supporters in the audience. I think I will let him acknowledge them when he comes to the table, but we are glad that the entire family is here today.

I am going to turn to my other colleagues to introduce nominees and since Senator Kirk was not only prompt, but early, I am going to recognize him at this point.

Senator Mark Kirk.



**PRESENTATION OF JOHN ROBERT BLAKEY, NOMINEE TO  
BE DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF  
ILLINOIS, BY HON. MARK KIRK, A U.S. SENATOR FROM  
THE STATE OF ILLINOIS**

Senator KIRK. Thank you, Mr. Chairman. I am here to recommend and to thank you and President Obama for bringing forward Jack Blakey.

I am going to focus on Jack Blakey because it is a twofer. We are getting Jack and his dad. His father, Robert Blakey, worked for Senator McClellan of Arkansas in the late 70s and wrote the RICO Statute. If there is any State in the Union that needs experts on RICO, it is Illinois.

I just would thank you for having—I would say with Jack Blakey we are putting a guy on the bench who is an experienced Shakespearean actor who even performed in London—90 trials all the way to the end, including bench and jury trials. He is working for Anita Alvarez in a very senior leadership position in Cook County, Illinois, a place you would know very well.

With that, I will conclude then. Thank you, Mr. Chairman.

Senator DURBIN. Senator Kirk, thank you very much.

Mr. Blakey, thank you for being here and you will have an opportunity to introduce your family when you are called.

The other nominees are from the great State of Texas. Who is here to speak on their behalf but Senator John Cornyn. Take it away, Senator.

**OPENING STATEMENT OF HON. JOHN CORNYN,  
A U.S. SENATOR FROM THE STATE OF TEXAS**

Senator CORNYN. Thank you, Mr. Chairman. I like the way you said “Great State of Texas.” We agree.

I want to thank the Chairman for convening this hearing. We have before us five nominees for the Federal bench, three of whom have been nominated to fill vacancies in Texas.

I want to congratulate each of those nominees and their families for this great honor. I know you traveled a long way and endured a lot of paperwork and other scrutiny to get where you are. I want to just introduce these three nominees briefly.

Magistrate Judge Amos Mazzant is a fixture in the bar in Sherman, Texas in the Eastern District. He graduated from the University of Pittsburgh and Baylor Law School, and remained in Texas after that.

From 1990 to 1992, Judge Mazzant clerked in Sherman for U.S. District Judge Paul Brown. Since then he has made his legal career there, including serving for the last 5 years as a Federal Magistrate.

If confirmed, Judge Mazzant will serve in the courthouse named for Judge Brown.

Robert Pitman is our U.S. Attorney in the Western District of Texas. He has graduated from Abilene Christian University and University of Texas Law School, and then clerked for a Federal Judge.

Before assuming his current role, Mr. Pitman served for many years as a Federal Prosecutor and Magistrate in the Western Dis-

trict. He has earned accolades for his work at every level, as well as the support of the local bar.

I was proud to support Robert for U.S. Attorney, and I am proud to support him for the nomination at the Federal bench.

Trey Schroeder is a litigator in private practice in Texarkana, Texas. I understand he is not a native Texan, but we have always taken converts and people who got there as fast as they could.

He graduated from the University of Arkansas and American University's Washington College of Law. Since then he has had a distinguished career, including work in the Office of the Counsel to President, and as a law clerk on the U.S. Court of Appeals for the Eighth Circuit.

He is currently a partner at Patton, Tidwell and Schroeder, and his reputation in Texarkana is stellar.

Each of these three nominees are lawyers of the highest caliber and the kind of individuals who should serve on the Federal bench. That is no surprise because like your process, Mr. Chairman, we have a bipartisan Federal Judicial Evaluation Committee that has scrutinized these nominees and done an outstanding job in making these recommendations to Senator Cruz and myself, and working with the White House to get these nominations where they are today.

The FJEC, as we call it, is a bipartisan blue ribbon panel of some of the best lawyers and judges in the State of Texas. They provide input on applicants to the Federal bench and we work closely with the White House, as I said, to ensure that the nominees in our State are the kind of men and women who deserve the honor of these important jobs and lifetime tenure that goes along with it.

I want to thank our volunteers who serve on the FJEC and the White House Counsel's Office for their work with our offices on these nominations. I am proud of the work that the FJEC has done and the quality of these nominees. I look forward to hearing from all of them. Thank you.

Senator DURBIN. Thanks, Senator Cornyn. I will ask the staff to put the name tags before the chairs so each nominee will see where they are to approach in just a moment.

For the record, all of these nominees have gone through an extensive process, an application, which is voluminous and then review by committees in Illinois and Texas in this circumstance. They have answered scores and scores of questions about their background. So if the questioning today is brief, it is not an indication that we think there is little to be asked. A lot has all ready been asked and answered.

We will start by asking the nominees to each approach the table and stand for a moment while I administer the oath customary of the Committee.

Raise your right hand. Do you affirm the testimony you are about to give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Judge ALONSO. I do.

Mr. BLAKEY. I do.

Judge MAZZANT. I do.

Mr. PITMAN. I do.

Mr. SCHROEDER. I do.

Senator DURBIN. Thank you. Let the record reflect that all five of the witnesses and nominees have answered in the affirmative. We are going to give each of you a chance to say a few words by way of opening, and start with Judge Alonso.

**STATEMENT OF HON. JORGE LUIS ALONSO, NOMINEE TO BE DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS**

Judge ALONSO. Thank you, Senator. I would like to start by thanking the Committee, the entire Committee for convening this meeting. I would like to thank the Chairman, the Ranking Member, and I would also like to thank you, Senator Durbin. I would like to thank you for presiding and chairing today. I would also like to thank you for your gracious introduction, as well as, of course, for your recommendation and all of your support.

Of course, I would like to thank President Obama for this incredible honor of the nomination.

I do have family with me here today, as you alluded to. I have my wonderful wife here, Ameer Alonso, of 15 years. My amazing daughters are here, Lila, Ursula, and Lulu. They are here. They are in eighth grade and sixth grade, and they have sacrificed a couple of days to be here.

I have got my mother here from Florida, Ursula Alonso, and I would like to thank her for being here. I am so happy she is here. And I would like to thank her for her support, her guidance throughout all of these years.

I would be remiss if I didn't mention my father. We lost my father some years ago, Pedro Alonso, but I would like to have his name inserted in the record. And he would be thrilled to be here, as thrilled as my mother is and the rest of my family.

Also here from Arizona are my wonderful in-laws, Robert and Rosemarie Orlick. He is a retired engineer and a Korean War Veteran.

I have family that couldn't make it here today that is watching on the webcast and supporting me. I would like to acknowledge my brother, Jose Alonso, who is an attorney in Florida; my sister and her family, Dr. Susanna and Steven Barski, and their wonderful daughters, Elia and Emily. And in Arizona I have my sister-in-law and her family, Drs. Kathy and Douglas Little. He is also a Colonel in the National Guard and they have four wonderful children, Christopher, the oldest that we are all very proud of, and the rest, AJ, Alexandra, and Brendan who, of course, we are also proud of.

I would also like to just acknowledge all the support back in Chicago, back home from my legal family, all of the hardworking professionals that I have been fortunate enough to serve with over the last 10 years, plus all of my fellow judges in Cook County, all of the hardworking lawyers, and all of the other individuals that have always supported me, clerks, sheriffs, court reporters, interpreters, probation officers.

Thank you very much.

[The biographical information of Judge Alonso appears as a submission for the record.]

Senator DURBIN. Thank you, Judge.

Mr. Blakey.

**STATEMENT OF JOHN ROBERT BLAKEY, NOMINEE TO BE  
DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS**

Mr. BLAKEY. Thank you, Mr. Chairman. Thank you for presiding today. Thank you for your support and all of your hard work on behalf of the Committee. Thank you too, Senator Cornyn, for being here today.

I would like to thank the President and Senator Kirk. I am humbled by their confidence in me and I appreciate their kind words and support.

With me today is my wife, Christina. We have been married almost 20 years and she certainly is a good example of good judgment on my behalf in choosing to ask her to marry me.

My father is here, Professor G. Robert Blakey. My father-in-law, Dan Saracino, is also here. And my four boys, Joseph Blakey, Charlie Blakey, Daniel Blakey, and George Blakey are all here as well.

And a dear friend of mine, Steve Nagorski, is also here. He lives in the Washington area.

My brother Michael and my sisters, Liz, Marie, Katie, Christie, and Megan are all watching from home. They are here in spirit.

And my brother Matt and my mother have passed, but are also here in spirit.

I look forward to the questions from the Committee and thank you very much.

[The biographical information of Mr. Blakey appears as a submission for the record.]

Senator DURBIN. Thank you.

Judge Mazzant.

**STATEMENT OF HON. AMOS L. MAZZANT, III, NOMINEE TO  
BE DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS**

Judge MAZZANT. Thank you, Senator, and I want to thank the Committee for convening the hearing. I want to thank the President for the honor of this nomination. I want to thank Senator Cornyn for his kind introduction, as well as both Senator Cornyn and Cruz for recommending me to the President. And I want to thank the Senators Federal Judicial Evaluation Committee for recommending me to the Senators.

I have a large number of family that made the trip here today. If you will indulge me, I will introduce them.

The love of my life, my wife Michelle of 24 years. She is a kindergarten teacher in Sherman. My daughter, Caitlin would have loved to have been here, but she is starting her freshman year at Texas A&M and is watching via the webcast. My younger daughter, Alex is here. She is missing high school. She is a junior at Sherman High School.

My sisters are here, Cynthia Mazzant and Jim Colbert. My younger sister Kristina Mazzant-Thorpe, and my nephew Zach. My brother-in-law, Sam, is watching via webcast, as is my niece, Taylor, who is also in college.

My father would have loved to have been here, but he and my stepmother, Amos and Cookie Mazzant, are watching via the webcast in Florida. And my brother Matt is—hopefully—he said he would get up to watch from California, early. We will see if he did or not later.

I have wonderful in-laws. They are here, Jeanne and Bill Melfi; my brother-in-law, Todd and Melissa Melfi. My wife's aunt Rosemarie Melfi is here. My wife's Uncle Donnie and Aunt Jackie Melfi are here as well, as well as her cousin Marilyn Coleman.

I also have some of my staff members here, Terri Scott, my judicial assistant, as well as Debbie McCord, my courtroom deputy and my career law clerk is watching via the webcast.

I have a number of lawyer friends that actually showed up too, and I will just say their names really quickly, Alienne Durrett, Bret Johnson, Kimberly Preist-Johnson, Roger Sanders, Clyde Sigman, Judge Carol Sigman, all from Sherman or Dallas, as well as Jim Carter who is from here in Washington, DC.

I would also like to acknowledge the judges of the Eastern District who have been so supportive of me in this effort. I want to acknowledge my mother who passed away 13 years ago, but is here in spirit.

And then finally, I would like to just recognize Judge Paul Brown who was my mentor and hired me as a law clerk and changed my career 24 years ago, and we have several other law clerks here that are in attendance. And I thank you.

[The biographical information of Judge Mazzant appears as a submission for the record.]

Senator DURBIN. Thank you very much.

Mr. Pitman.

**STATEMENT OF ROBERT LEE PITMAN, NOMINEE TO BE  
DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS**

Mr. PITMAN. Thank you Chairman Durbin, Senator Cornyn. I appreciate this opportunity to appear before you today. I especially would like to thank Senator Cornyn for his generous introduction and for his longstanding support.

I would like to thank both Senator Cornyn and Senator Cruz for submitting my name to the President. And, of course, I would like to express my appreciation to President Obama once again for the proud honor of a nomination. The opportunity to serve as U.S. Attorney has been the greatest honor of my life, and I am humbled beyond words now to be considered for appointment to the bench.

I would like to acknowledge several family members and friends who are with me here today. Joining me today is David Smith, on whose support, and encouragement, and wisdom I have relied for over 20 years now.

Of my four brothers and sisters, one is with me today, my eldest brother, Tim and his wife, Echo. The youngest of five kids, I owe much to the guidance and love—albeit sometimes tough love—of my elder siblings and I appreciate so much their support throughout the process.

Echo's daughter, Rebecca Beyer, has joined us from New York today. I am also very honored to have today supporting me, several friends who have come from Texas. They are really like family to me, and they have supported me, again, throughout this process, John Dalton and Marilyn and Lex Henderson.

Finally, Mr. Chairman, I would like to recognize, for the record, the outstanding men and women of the U.S. Attorneys Office for

the Western District of Texas with whom it has been my honor to serve and who I believe represent the very best of public service.

Thank you and I appreciate the opportunity to appear today.

[The biographical information of Mr. Pitman appears as a submission for the record.]

Senator DURBIN. Mr. Pitman, would that include your first assistant?

Mr. PITMAN. That does. My first assistant—for the record, his name is Richard Durbin.

[Laughter.]

Mr. PITMAN. Senator, I figured with a name like that, I couldn't go wrong.

Senator CORNYN. No relation, I hope.

[Laughter.]

Mr. PITMAN. He is a graduate of the University of Chicago.

Senator DURBIN. Mr. Schroeder.

**STATEMENT OF ROBERT WILLIAM SCHROEDER, III, NOMINEE  
TO BE DISTRICT JUDGE FOR THE EASTERN DISTRICT  
OF TEXAS**

Mr. SCHROEDER. Thank you, Senator Durbin, for chairing the hearing today and for giving me the opportunity and the privilege to be here. Thank you, as well, Senator Cornyn for being here today. I want to thank Chairman Leahy and Ranking Member Grassley for scheduling the hearing as well as the other Members of the Committee for considering my nomination.

I would like to begin by thanking President Obama for nominating me for this position. I am humbled by it. I am grateful to you, Senator Cornyn and Senator Cruz for recommending me to the President and for your support and the support of your staffs throughout this process.

Thank you, Senator Cornyn, for your kind and generous words today. I would also like to thank the Senator's Bipartisan Federal Judicial Evaluation Committee for considering my application and for its support of me as well.

I am fortunate today to be joined by my family and I would like to introduce them. My parents, Mary and Bill Schroeder are here. Just last month, they celebrated their 50th wedding anniversary. They are two of the finest, hardest working people I know, and I owe so much to both of them for their love and support.

My mother-in-law, Nancy DeLamar, the best mother-in-law one could hope for, and I am glad that she is here today. My daughters, Eleanor and Francis are here. Their birthdays were last week. They turned 15 and just started as freshmen at Texas High School in Texarkana. Their mother and I are very proud of them and the fine young women that they are becoming. I would be remiss if I did not also tell you that they are both excellent soccer players.

Finally, my wife, Megan—we were married 20 years ago this summer. And as Senator Cornyn sometimes says about himself, Megan is a recovering lawyer herself and I can assure you that she is the smartest lawyer at our house. She is my best friend and the love of my life.

I also have a couple of friends that I would like to briefly acknowledge. My lifelong friend, Brad Davis, came from Little Rock

and I am glad to have him here. We have been friends for more than 45 years.

One of my law partners, Kelly Tidwell, is here with his son, Hutch, who is a tenth grader, also at Texas High School. And I am glad that they were able to make the trip.

I also have several longtime friends from Washington who were able to be here today, and I thank them as well. And finally, friends, other family members, and colleagues from back home watching on the webcast. I appreciate their support.

And my thanks to all of you and I look forward to answering your questions.

[The biographical information of Mr. Schroeder appears as a submission for the record.]

Senator DURBIN. Thanks, Mr. Schroeder.

I am going to ask a generalized question to start with. I am going to acknowledge the obvious. None of you would be sitting here today if you didn't have the appropriate legal credentials and experience. And now you are aspiring, for most of you, to a new position in life, at least at the Federal level, to be a judge.

In that position, you are going to be called on to use that legal expertise, that experience, in a different way. My experience—in the distant past when I practiced law—was that you were looking for two things when it came to a judge, the right temperament and fairness.

I have had a chance, having served here for a few years, to interview a lot of people aspiring to the Federal bench, even to the Supreme Court, and I have found it interesting how many of them would come before me and say, "Ignore what you read about what I have done in the past. That really has nothing to do with what I will do in the future. I am going to go right down the center stripe of the highway. I used to be left-handed all of my life. I can be right-handed too. I can do whatever it takes to make sure that we apply the law fairly and accurately and so forth and so on."

Most of the time as I observe their records afterwards it, it turns out to be less than truthful. What we are today is what we were and what we learned in our life experience.

So I would like to ask each of you—for three of you there is a life experience as a defender, as a prosecutor, and other experiences. You have been in courtrooms, all of you, many times in the fray representing litigants, prosecuting, defending, some clerking for the judges who are observing this process and trying to come to a fair outcome.

I would like to have each of you comment on these two basic ideas of temperament in judges and fairness, what you have observed and the standard you would hold yourself to.

Judge Alonso, start.

Judge ALONSO. Thank you, Senator. In terms of temperament, Senator, what I have tried to do over these past 11 years is I have always tried to make sure that I am kind and respectful to everyone that appears before me, litigants, attorneys, all of the parties. I try to practice restraint at all times.

It is my sense that as judges we have to control the courtroom, but I feel that if you can't control your own emotions, it is very, very difficult to control the courtroom or the emotions of other peo-

ple that appear in front of you. It is my feeling that they take their cue from you as the judge in the courtroom.

I try always to be humble and I also try always to be patient. I think that is a very important trait. I think only when we are patient can we make sure that everyone feels like they have had their say and have been heard.

Senator DURBIN. Mr. Blakey, your background is largely as a prosecutor. And to put it in context, if I am an impoverished criminal defendant, minority, standing before you as my judge, do I have a chance?

Mr. BLAKEY. Thank you for the question, Senator. Of course. As a public servant for over 20 years, having done both criminal and civil, having done prosecution and some criminal defense issues, some issues with respect to being a law clerk, I have always been committed—no matter who my client was—to the rule of law. And if I am fortunate enough to be confirmed, I would bring that to the bench and I would have not only the temperament to apply the law fairly and to give dignity to each person who came into the room, I would do it impartially.

I would never put my finger upon the scales of justice for any party, whether it be the government or any particular litigant. I would listen. I would be humble. And I would be patient because in humility and patience and listening comes very good results. It allows a person not only to know that they have been heard, but that they have been understood.

Senator DURBIN. Mr. Mazzant, I don't know the judges that you have clerked for and worked with, but you have certainly observed it from that side of the courtroom. What are your thoughts on this?

Judge MAZZANT. Thank you, Senator, for the question. I have had a great role model with Judge Paul Brown. He epitomized what a good judge would be, followed the rule of law, had a great temperament, treating everyone with respect.

When I became a judge 10 years ago, and I served both as a State judge and a magistrate judge for the last 5 years—I followed that example, following that rule of law and treating everybody that came before me with respect and fairness. And if I am lucky enough to be confirmed, I would follow that same pattern.

Senator DURBIN. Mr. Pitman, as a U.S. Attorney, tell me how you view your future role on the bench.

Mr. PITMAN. Senator, having been an Assistant State's Attorney and now a U.S. Attorney, I have certainly had the role as an advocate, but I have made this transition before from being an advocate to being a United States Magistrate Judge.

Making that transition from prosecutor to being a judge, although it is a shift, it is somewhat different than being another kind of advocate that goes to the bench because a Federal prosecutor has the obligation of being an advocate, but also of doing justice. And so I think because that has been an added dimension of the job that I have had throughout my career as an advocate, I have appreciated the fact that a big part of that job was to be a gatekeeper and to watch out for people's rights even if they were on the other side of the docket.

I did that, I believe, successfully when I made the transition to be a United States Magistrate Judge. And I pledge to you that I



will understand the difference between being an advocate, and I will understand that as a judge I will need to be not only an impartial and neutral arbiter, but to be seen and perceived as that.

Senator DURBIN. Thank you.

Mr. Schroeder.

Mr. SCHROEDER. Thank you for the question, Senator Durbin. I have had a diverse legal career. I had a couple of years clerking for Judge Richard Arnold on the Eighth Circuit Court of Appeals which was an amazing experience for me.

He had a profound commitment to the rule of law, and I learned so much from him about the importance of preparation and the importance of hard work, the importance of being kind and courteous to litigants and counsel. I had a few years working in the executive branch here in Washington, and I have had 15 years of private practice in Texarkana.

My experience and the judges in both State and Federal court that I have appeared before that I most admired were well prepared, thoughtful, careful, people of modesty and humility who recognize their role in the process and who recognize that their role as the judge was an important role, but a limited role. And their job and obligation was to carefully consider the facts and apply the law to the facts of each case, approaching each case fairly, impartially, and with an open mind. And that is the kind of judge I would try to be.

Senator DURBIN. Thank you and I find it interesting how many of you have used the word “humility.” Humble is one of the first words that comes to mind when you say “United States Senator.”

[Laughter.]

Senator DURBIN. We have a lot to be humble about, I guess.

I acknowledge the presence of Senator Cruz and I will recognize him immediately after Senator Cornyn.

Senator CORNYN. Well, thank you, Mr. Chairman. Mr. Schroeder, you mentioned the fact that I was a recovering lawyer, and as you know, I also spent 13 years on the State bench, so I admit to being a recovering judge as well.

[Laughter.]

Senator CORNYN. I agree 100 percent with what Senator Durbin said about we are all a product of our background and upbringing and probably what we will do in the future—the best indicator of that is what we have done in the past, but I also would want to stress what some of you have acknowledged is that your role as an Article III Federal District Judge is different from any role that you have held in the past.

I know for the three nominees from Texas, you have gone through a very extensive vetting process, FBI background check, you have got public records that have been examined closely and, as we said, to the FJEC’s bipartisan evaluation. I feel like I know a lot about each of you, and it is because of the confidence that I have that I was very comfortable recommending to the President each of you be nominated for these positions.

So I don’t have a lot of questions, but I just want to ask each of you—my experience has been that what litigants want, what people who come into court want are basically three things. They

want somebody who will listen, somebody who will treat them respectfully, and somebody who will follow the law.

I will start with you, Mr. Alonso, and we will go down the line. Would each of you agree with that or disagree? And if you agree with it, will you do it?

Judge ALONSO. I agree with it. I think that is a great top three. There are many skills that are necessary and that come into play, but that is a great start, very important traits. I have tried over the last 11 years to operate exactly that way, and so happily in my case, you have my assurances, of course, that I will continue to do that. Also we have, hopefully, the evidence of the job that I have tried to do over these last 11 years as a judge in Cook County.

Senator CORNYN. Thank you.

Mr. BLAKEY. Thank you, Senator. Yes, I agree with you emphatically. I believe that listening is perhaps one of the key ones that you mentioned. Listening and engaging the attorneys to find the critical legal and factual turns of a case is critically important not only in getting a good result, but getting the nuance of the result and the basis for the result correct and for avoiding unjust results or unnecessary costs or delay. So I agree with you completely.

Judge MAZZANT. Thank you, Senator. I agree with you wholeheartedly and that is something that as a judge for the last 10 years, as the magistrate judge sitting in Sherman for the last five, that is what I try to do every single day with every case, to follow those three precepts you set out.

Mr. PITMAN. Senator, of course, I do agree with that. I would add that it has often occurred to me as a judge and someone who has practiced in Federal court all of my career, that with life tenure comes a reciprocal obligation to treat people respectfully, to have a strong work ethic and then to respect the law because you are the face of the justice system. And I pledge to you that I will do as I have done previously in my career and be the judge that you have described.

Mr. SCHROEDER. Thanks for the question, Senator Cornyn. I do agree with that and that is exactly the kind of judge I would hope to be.

Senator CORNYN. If there was one other trait I would mention, it would be patience. Because some of you have alluded to the fact that with life tenure, sometimes people lose their patience. They develop what is commonly called in the profession "robotis," which is a dangerous disease that judges sometimes get.

When you don't have to stand for election, and you are basically insulated from the kind of accountability that most other public officials have, sometimes that can lead you down the wrong path. But I feel confident based on the knowledge that I have that certainly the Texas nominees—I take the other nominees at their word that they will do those things, listen, be respectful, follow the law, and hopefully demonstrate patience and not develop that dreaded case of "robotis."

I just have one other question for all of you. I would like to go down the row again. As a trial judge, do you believe that is your responsibility to follow binding precedent by the Court of Appeals and the U.S. Supreme Court, or do you feel like you have some license or authority to make new law as a lower court judge?

Judge ALONSO. I feel that it is the job of the trial judge to be bound and to follow the precedent that is set out by, in our case if I was fortunate to be confirmed, the Seventh Circuit and, of course, the Supreme Court of the United States.

Mr. BLAKEY. Yes, Senator, Federal courts are very important courts, but they are courts of limited jurisdiction and they have a role to play within divided government, and part of that is that each member of the judiciary plays its role within the framework that the framers have laid down. And binding precedent and the authority of a superior court is critical to the functioning of the judicial system. I agree completely.

Judge MAZZANT. Thank you, Senator. I also agree with my fellow nominees. As a magistrate judge, I am bound by the authority of the Fifth Circuit and the Supreme Court and that is what I do every day in my job currently.

Mr. PITMAN. Senator, I do believe that is the role of a district judge to follow precedent, and I pledge to you that if confirmed, I will adhere to the precedent of the Supreme Court and Fifth Circuit as I engage in the activities of judging.

Mr. SCHROEDER. Senator, I likewise agree. I think following precedent is what brings stability and predictability to our legal system and our system of justice and I would be strictly bound by the Supreme Court and the Fifth Circuit.

Senator CORNYN. Mr. Chairman, I am happy to yield to Senator Cruz who has joined me in making these recommendations for the three judges from Texas to the President.

Senator CRUZ. Thank you, Mr. Chairman. Gentlemen, let me congratulate each of the five of you on your nominations.

I would note for the three nominees from Texas, that as Senator Cornyn made reference, you have been through a vigorous process beginning with extensive review and interviews by the Federal Judicial Evaluation Committee which is a bipartisan committee that Senator Cornyn and I have formed together consisting of some of the most highly respected lawyers throughout the State of Texas in a variety of fields of practice, geographically diverse, and consciously bipartisan to reflect that the bench is not supposed to be a partisan endeavor. Upholding the rule of law and taking the oath as an Article III judge requires a degree of confidence, a degree of fidelity of law that should cut across party lines.

So I want to commend each of the three of you from Texas because you would not be here had each of you not very much impressed the members of that committee and had you not very much impressed both Senator Cornyn and myself. We have had the opportunity to visit with all three of you. You have impressive professional credentials and a long career demonstrating the fidelity to law that we expect from our judges. It is obviously a unique and critically important responsibility that we entrust upholding the law to a relatively small number of men and women who take an oath to do so.

What I would like to ask each of the five of you is a couple of questions. The first of all, simply how would you describe your judicial philosophy?

Judge ALONSO. Thank you, Senator. I would describe my judicial philosophy as always being open-minded, fair, patient, always lis-

tening until the end, always making sure that I am not guessing what is going to come next. I wait with an open mind and I exercise my judgment fairly and evenhandedly.

Mr. BLAKEY. Thank you for the question, Senator. I would characterize my philosophy as a devotion to the law, a devotion to the role that we play in society, that limited role, but important role. In a variety of contexts, a great deal of power is given, and to those who are given power, much is expected. And I would apply law to the facts presented and I would do it impartially with a great deal of hard work.

Judge MAZZANT. Thank you, Senator, for your nice remarks about the Texas nominees. My judicial philosophy is one that I am bound to adhere to the rule of law, that I am going to impartially consider the facts of the case, apply precedent to those facts, and make a decision without any regard to any personal views or feelings I might have. And that is what I have done as a magistrate judge.

Mr. PITMAN. Senator, at the risk of repeating, I will reiterate that I believe that the judicial philosophy appropriate for district judge is faithful adherence to the rule of law and to the precedent of the Supreme Court and the Fifth Circuit. And I assure you that that is the philosophy that I will follow as a district judge if confirmed.

Mr. SCHROEDER. Thank you for the question, Senator. I think that the role of the judge is to fairly and impartially decide cases with the impartial application of the rule of law. As I said before, I think that the role of the judge is limited. It is important, but limited. Judges don't make law. They decide concrete disputes in front of them, one case at a time with attention to the facts and the arguments of the parties, and by applying the law and precedent to those facts. And that is the type of judge I would hope to be.

Senator CRUZ. Thank you, gentlemen. Let me ask one additional question. Again, to all five of you, which is how would you define judicial activism and how would you characterize the responsibility of a judge to avoid engaging in judicial activism?

Judge ALONSO. Thank you, Senator. I think that an activist judge would be a judge who does not understand his limited role. I think it is a judge who has an agenda, shall we say, a judge who is deciding a case based on what he or she wants the case to be about.

The opposite of that is a judge who exercises humility, who understands this limited role, and who understands that he or she has to decide the issues that are necessary to resolve the dispute that is before that judge at that time.

Mr. BLAKEY. Thank you, Senator. I would define activism, judicial activism as a judge who has not only stepped out of his role as my colleague mentioned, which I agree with fully, but someone who has turned the law to their own purpose rather than serving the purpose of the law.

A very smart person can achieve any result if they are willing to give up their service to the law, and I think that is what activism is. You should serve the law, not vice versa.

Judge MAZZANT. Thank you, Senator. I don't disagree with anything that my fellow nominees said, but I would just add that the simplest way is a judge who makes decisions based on what they feel should be the result is judicial activism. That is not what I would adhere to as a judge, and I will always follow the rule of law, and am bound by that precedent.

Mr. PITMAN. Again, Senator, at the risk of simply reiterating and repeating, I do understand that term to mean a judge who injects his or her personal beliefs or political agenda into the decision-making process. I believe that that is not the role of a judge, and it is not the mode that I would employ in interpreting the law or in engaging in my other duties as a judge.

Mr. SCHROEDER. Thank you, Senator, for the question. I agree with what my fellow nominees have said. I think one way to avoid that result is by focusing on the narrowest issues in the case and deciding the case as narrowly as possible and not deciding things that don't need to be decided.

Senator CRUZ. Thank you very much, gentlemen.

Thank you, Mr. Chairman.

Senator DURBIN. Gentlemen, I would like to ask a question in the second round. From the beginning of this nation, the drafting of the Constitution, we have grappled with one fundamental issue, many, but this one recurs. The issue of race and justice in America—a Constitution which acknowledged slavery, a nation which as recently as a few weeks ago in Ferguson, Missouri was reminded that it is still a challenge in this modern America despite all the progress that has been made, all the effort that has been put into it.

You are seeking an opportunity to serve as a member of the Federal judiciary. It is likely that many of the criminal defendants who come before you will be minorities. It is also likely that many of them feel that this system is rigged against them. Statistics in the past—and they do go back a few years, so they may have changed some—suggest, for example, that out of the 12 or 15 percent minority population in this country, when it comes to arrest for drug crimes, it is 35 percent. When it comes to incarceration for drug crimes, it is 60 plus percent minorities who are being incarcerated.

How do you view—and I know you cannot address any specific case, but how do you view this issue in terms of your responsibility and if you wish to step out a little further, and my responsibility on the legislative end of it, when it comes to dealing with establishing or in some cases restoring a sense of fairness in our system of justice when it comes to minorities?

Let me start with Mr. Schroeder. This applies as well to Illinois as well as Texas, so I am not singling out any State. It applies to all of us.

Mr. SCHROEDER. Thank you, Senator, for the question. I think you do it one case at a time. I think you approach every case impartially and with an open mind, and you seek to do justice in each case. I think that it is very important that the way you run your courtroom makes clear to everyone that it is a place where everyone is going to be treated fairly and that people who come into the courtroom without regard to their race or their gender or their so-

cioeconomic status or their station in life, that they are going to get a fair shake.

Senator DURBIN. Let me take this to another level. You may find it incredible that Senator Cruz and I would find agreement on a basic issue, but we have on the Smarter Sentencing Act. In that situation, we are trying to make sure that the mandatory minimum sentencing under the Federal law gives judges more discretion in a specific category of cases, drug offenses that don't involve guns, gangs, or violence, to give more latitude.

One of the things that inspired me to move in this direction was the judiciary, judges who came back after applying our laws to their case and saying, "Senator, this is not fair. It is not just." They stepped out of their role as strictly judges and became, at least, commentators on the state of law.

So I ask you do you think that is part of your responsibility?

Mr. SCHROEDER. Senator, thank you for the question. I think it is your responsibility to understand the impact that any individual result or judgment has in a case, and I think it is important for you to try to treat everyone fairly and impartially and obviously, I do not have great experience in the criminal field. I have handled 15 to 20 cases over the years. I did a fair amount of work in criminal cases when I was a law clerk and I certainly understand the importance of uniformity in sentencing and I think that is an important goal to be achieved.

Senator DURBIN. Mr. Pitman, you have had to live with these laws that we've passed here and apply them as a prosecutor. What are your thoughts on this issue of race and justice?

Mr. PITMAN. Well beyond just that, Senator, I will say that as you know, the Attorney General has proposed and implemented the Smart on Crime Initiatives within the Department. And one of the goals of that is to make sure that we are reserving—the very serious sanctions made available to us under statutes passed by Congress are reserved for the most serious offenders and to scale the tools that we have at our disposal to make sure that the law is enforced.

Getting back to your question about the profile of some of the defendants that we deal with, one of my practices as a magistrate judge was before I went out onto the bench, I considered the fact that even if it was a very—what to me was a very routine and perhaps not something that was going to be on the front page of the paper, for the person standing there, it was the most important thing in the world and that it deserved my full attention. So I would make every effort not only to go out and be fair and impartial and to treat everyone the same regardless of their background, but to make sure that they felt that way and they got the message from me that I was taking their problem and their situation seriously. And I will continue to do that if confirmed.

Senator DURBIN. Judge Alonso, as a criminal judge in Cook County, you have faced many criminal defendants. You know what I am talking about on this issue of race.

Judge ALONSO. Yes, I do, Senator. I think that in essence, we always have this tension between wanting uniformity across the system in sentencing, but we also want to make sure that the judge has discretion.

So at the system, we look at all of these cases and we try to figure out what category they fit in, but it really is an impossible task. Every defendant in a criminal case is different. Every case is different factually. So it is always a challenge to remember that, to treat every case as the most important case and not one of 400 cases, but just that case.

I think it is important to have discretion and to trust the judge to exercise that discretion within certain limits, and it appears to me that the recent adjustment in the Federal sentencing provisions lands in a good place, starting with the guidelines, but moving from there and giving more discretion to the judges. I think it is important.

I think also that we see across the system more and more talk about restorative justice and helping courts, or problem solving courts. And when we have sentencing provisions that don't allow us to take advantage of that in a situation where we can identify a specific problem and we actually think we can make a difference in this person's life, both to help the defendant and to help us as a society so that there is not recidivism, which is what we are trying to stop. I think it is important to make sure that judge's hands are not handcuffed and that the judge does have discretion in those situations to give the appropriate sentence.

Senator DURBIN. Mr. Blakey, I recently attended an Innocence Project dinner in Springfield, Illinois where formerly incarcerated people spoke. They had been found to be innocent and had been incarcerated for long periods of time, unjustly.

One of them, African American, said, "They sat me down and they said if you don't plead to this crime, here is what you face. You face the possibility of a mandatory sentence and it is stiff, and you are going to face a jury that may not be friendly to an African American defendant. So do you want to roll the dice here, or would you rather plead to a lesser offense and get this behind you?" And the man said, "I have no choice." He went to jail for something he had not done.

Have you run into this? What are your thoughts on this circumstance?

Mr. BLAKEY. Senator, that is a horrific story and a failure of the role of a prosecutor to be a fair administrator of the law and to do so impartially. I also think it is important in a prosecutorial role to be vigilant with respect to race disparity and the way the criminal justice system is run. In fact, as a Federal prosecutor and as a State prosecutor, I have devoted much time to police corruption and civil rights violations and have done a lot of work in that area. And it is important to do that and to assess each case on an individual basis and have a fresh look and an individual assessment so that each individual is only charged with what they have done and that as a prosecutor that your just sentence is the only sentence that is going to be adhered to.

Senator DURBIN. Mr. Mazzant, your thoughts on this issue?

Judge MAZZANT. Thank you, Senator. As to the issue of mandatory minimums, naturally in my purview as a judge, I am not sure that is part of my job, but if this august body would change the mandatory minimums, I will enforce the law as you all change that, if that is changed.

As to how I deal with anyone who comes before the court, as a magistrate judge, I do handle the pretrial criminal. So I do all of the initial appearances and the motions prior to trial. I make sure—and my goal would be that anyone who comes before the court, by the time they are finished, they feel they got a fair treatment before the court. And that is what I would try to do.

Senator DURBIN. I thank you very much. I know there is no easy answer to the questions I have been asking. It is a challenge to us on this side as it is to those on your side of the table to restore that sense of justice and feeling of fairness in our courts across America. We have a lot of work to do.

I thank you all for being here today, thank your families for attending at this hearing of the Senate Judiciary Committee.

The record is going to remain open for a week. There may be some additional information asked of you or questions sent your way and I hope you can respond in a timely fashion.

I thank you all for being here today and the Committee stands adjourned.

[Whereupon, at 10:52 a.m., the Committee was adjourned.]

[Additional material submitted for the record follows.]



# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Witness List

Hearing before the  
Senate Committee on the Judiciary

On

“Judicial Nominations”

Tuesday, September 9, 2014  
Dirksen Senate Office Building, Room 226  
10:00 a.m.

Jorge Luis Alonso, to be a United States District Judge for the Northern District of Illinois

John Robert Blakey, to be a United States District Judge for the Northern District of Illinois

Amos L. Mazzant III, to be a United States District Judge for the Eastern District of Texas

Robert Lee Pitman, to be a United States District Judge for the Western District of Texas

Robert William Schroeder III, to be a United States District Judge for the Eastern District of  
Texas

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Jorge Luis Alonso

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

United States District Judge for the Northern District of Illinois

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: George N. Leighton Criminal Court Building  
2600 South California Avenue  
Courtroom 207  
Chicago, Illinois 60608

Residence: Park Ridge, Illinois

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

1966; Sagua La Grande, Las Villas, Cuba

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.

1988 – 1991, George Washington University Law School; J.D., 1991

1986 – 1988, University of Miami; B.A., 1988

1984 – 1986, Miami-Dade College, no degree

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.

2003 – present  
George N. Leighton Criminal Court Building  
2600 South California Avenue  
Courtroom 207  
Chicago, Illinois 60608  
Associate Judge

1991 – 2003  
Office of the Cook County Public Defender  
69 West Washington Street, 16th Floor  
Chicago, Illinois 60602  
Assistant Public Defender

August 1990 – June 1991, March 1989 – June 1990  
Ashcraft & Gerel  
2000 L Street N.W., Suite 400  
Washington, DC 20036  
Law Clerk

Summer 1990  
Office of the Public Defender 11th Judicial Circuit  
1320 N.W. 14th Street  
Miami, Florida 33125  
Summer Law Clerk

1986 – 1988  
University of Miami  
School of Business Administration  
Jenkins Building, Room 321  
5250 University Drive  
Coral Gables, Florida 33124  
Teacher's Assistant

Other affiliations (uncompensated):

2009 – present  
Cristo Rey Jesuit High School  
1852 West 22nd Place  
Chicago, Illinois 60608  
Junior Board Member

2006 – present  
Daniel Murphy Scholarship Fund  
309 West Washington Street, Suite 1250

Chicago, Illinois 60606  
Board Member

2002 – 2003  
Puerto Rican Bar Association of Illinois  
2332 North Milwaukee Avenue, Suite 104  
Chicago, Illinois 60647  
Board Member

1998 – 2000  
The Guild Complex of Chicago  
P.O. Box 47880  
Chicago, Illinois 60647  
Board Member

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 U.S. Military. I timely registered for selective service.

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.

University of Miami Boweman-Ash Scholarship (1986 – 1988)

George Washington University Scholarship (1988 – 1991)

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.

American Bar Association (approximately 1991 – 1992)  
Chicago Bar Association (2002 – 2014)  
Chicago Inn of Court (2011 – present)  
Differentiated Case Management Pilot Project (2009)  
Disproportionate Minority Confinement Committee (2007)  
Hispanic Lawyers Association of Illinois (2002 – 2014)  
Illinois Association of Drug Court Professionals (2012 – 2014)  
Illinois Association of Problem Solving Courts (2013 – present)  
Illinois Capital Litigation Trial Bar, Lead Counsel (2002)  
Illinois Judges Association (2003 – present)  
Associate Judge Committee (2003)

Illinois Judicial Education Conference (2010 – 2014)  
Faculty  
Illinois Latino Judge Association (2013 – present)  
Lawyers' Assistance Program (2003 – present)  
Judicial Intervener  
Lawyers Club of Chicago (2011 – present)  
Mental Health Court Association of Illinois (2012 – 2013)  
New Judge Training Seminar (Cook County) (2014)  
Faculty  
New Judge Seminar (2008 – 2014)  
Faculty  
Puerto Rican Bar Association of Illinois (2002 – 2014)  
Board Member (2002 – 2003)  
Special Supreme Court Committee on Capital Cases (2010 – 2011)

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.

Illinois, 1991

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 District Court for the Northern District of Illinois, 1991  
Supreme Court of the United States, 1995

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.

26th Street Readers (2011 – 2013)  
Founder (2011)

AFSCME, Local 3315 (1991 – 2003)  
 Union Representative (2000 – 2001)  
 Cristo Rey Jesuit High School (2009 – present)  
 Junior Board Member  
 Daniel Murphy Scholarship Fund (2006 – present)  
 Board Member (2011 – present)  
 DePaul University, School for New Learning (2008 – 2009)  
 Professional Advisor  
 Muscular Dystrophy Association (1995 – 2004)  
 Volunteer Camp Director  
 Park Ridge Country Club (2009 - present)  
 Social Member

- 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 the best of my knowledge the organizations listed in response to 11a above do not, and did not formerly, discriminate on the basis of race, sex, religion, national origin, ethnicity, or sexual orientation, 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.

During college, I served as a staff writer for student newspapers, titled Catalyst and The Miami Hurricane. After reviewing my files and the Internet, I have been able to locate the following articles:

Jorge Alonso, *New Law Affects Students*, The Miami Hurricane, January 23, 1987. Copy supplied.

Jorge Alonso, *UM Buildings Not Hazardous But Violate Law*, The Miami Hurricane, November 4, 1986. Copy supplied.

Jorge Alonso, *Lab Fees Confuse Students*, The Miami Hurricane, October 14, 1986. Copy supplied.

Jorge Alonso, *Thoughts Of A Cuban-American*, Catalyst, April 10, 1986. Copy supplied.

Jorge Alonso, *Trustees Say Yes To Lottery To Raise Funds For Education*, Catalyst, March 13, 1986. Copy supplied.

Jorge Alonso, *Sexual Bias Not Issue On Campus, Women Say*, Catalyst, March 6, 1986. Copy supplied.

Jorge Alonso, *Thefts On Campus A Major Problem, Faculty Senate Says*, Catalyst, February 13, 1986. Copy supplied.

Jorge Alonso, *Students' Hands Speak Out Here*, Catalyst, January 30, 1986. Copy supplied.

- 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.

In 2007, while serving as an appointed member of the Disproportionate Minority Confinement Committee, I contributed to the preparation of the Committee's Mission Statement. Copy supplied.

Between 2010 and 2011, I was appointed to the Special Supreme Court Committee on Capital Cases. The Supreme Court appointed me after many reforms had already been implemented based in part on recommendations that had been made by the Committee prior to my appointment. I participated in the drafting of a report reflecting on the history of the Committee.

- 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.

None.

- 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.

The list that follows represents my best efforts, through searches of my records, calendars, and Internet databases, to identify speeches and remarks that I have given. There may, however be additional speeches and remarks that I have given, but I have been unable to identify exact date and times. In my personal practice, I have not used prepared texts, outlines or notes.

Since 2011, I have spoken to young women in the courthouse annually at the "Women Everywhere" event in Chicago, Illinois. I also address graduates of my specialty call, "Women's Justice Mental Health" call, approximately twice a year. I generally congratulate the graduates on their accomplishments and present them with certificates. I have no notes, transcript or recording. The "Women Everywhere" presentations and graduation ceremonies are held at the George N. Leighton Criminal Court Building, 2600 South California Avenue, Chicago, Illinois 60608.

Since 2008, I have regularly attended career days at various high schools in Chicago, Illinois. I do not recall every event, but these visits have included my annual presentations at Cristo Rey Jesuit High School since 2008, a presentation at Kelly High School in 2013, and at Morton High School in 2009. I also was Principal for a Day at Kanoon Delgado elementary in 2012 and 2013. During these events, I discussed the value of education and encouraged the students to stay in school. I have no notes, transcript or recording.

Since 2003, I have volunteered as a moot court judge at the University of Chicago Law School's annual Intensive Practice Workshop in Chicago, Illinois. I have no notes, transcript or recording. The address of the University of Chicago Law School is 1111 East 60th Street, Chicago, Illinois 60637.

June 19, 2014: Speaker/Panelist, The United States Agency for International Development and the Mexico Justice and Security Program, Chicago, Illinois. I was a member of a panel that addressed Mexican prosecutors who were in Chicago for a weeklong study tour of the American criminal justice system. I have no notes, transcript or recording. The address for the United States Agency for International Development is 1300 Pennsylvania Avenue NW, Washington D.C. 20004.

May 19, 2014: Faculty, New Judges Training Seminar, Circuit Court of Cook County, Chicago, Illinois. Along with other judges, I presented a three-hour continuing judicial education course on the disposition of criminal cases without trial and issues related to bench trials. I have no notes, transcript or recording. The address of the Circuit Court of Cook County is 50 West Washington Street, Chicago, Illinois 60602.



April 10-11 2014, January 30-31, 2014, April 16-17, 2012, January 30-31, 2012: Faculty, Education Conference, Illinois Courts, Lombard, Illinois. Along with other judges, I presented this continuing judicial education class on post-conviction issues. I have no notes, transcript or recording. The address for the Illinois Supreme Court is 160 North LaSalle Street, Chicago, Illinois 60601.

March 1, 2014: Panelist, Sixth Annual Illinois Latino Law Forum, Chicago, Illinois. I was on a panel of judges that discussed our experiences as lawyers as well as our paths to the bench. I have no notes, transcript or recording. The address for Illinois Latino Law Students Association is 315 South Plymouth Court, Chicago, Illinois 60604.

From 2011 to 2013, I organized a group of attorneys, named the 26th Street Readers, as tutors/mentors for fourth and fifth grade students at Kanoon Delgado elementary. We assisted the children with their homework and emphasized the importance of studying. I have no notes, transcript or recording. 26th Street Readers is now defunct.

December 2013, January 2013, December 2011, January 2011, December 2009, January 2009, December 2007: Along with other judges, I have served as faculty in the New Judges Seminar for the Illinois Supreme Court in Chicago, Illinois. These two-hour courses have involved a criminal law course regarding the setting of bonds, Gerstein hearings, preliminary hearings, jury waiver and right to counsel. We also have lectured on guilty pleas and sentencing. I have no notes, transcript or recording. The address of the Illinois Supreme Court is 160 North LaSalle Street, Chicago, Illinois 60601.

July 15, 2013: Speaker, National Autonomous University of Mexico in Chicago, Chicago, Illinois. I was one of two speakers who addressed Mexican students studying in the United States. I discussed my career as a lawyer and a judge. I have no notes, transcript or recording. The address for the National Autonomous University of Mexico in Chicago is 350 West Erie Street, Suite 300, Chicago, Illinois 60654.

June 28, 2013: Inductor, Induction Ceremony, Women's Criminal Defense Bar Association, Chicago, Illinois. I swore in the new officers of the bar association and made no additional comments. I have no notes, transcript or recording. The address for the Women's Criminal Defense Bar Association is 2134 West Chicago, Suite 100, Chicago, Illinois 60622.

May 6, 2013: Keynote Speaker, Daniel Murphy Scholarship Fund Awards Ceremony, Chicago, Illinois. I spoke to a group of eighth graders about their limitless potential on the occasion of their being awarded scholarships to prestigious high schools. I have no notes, transcript or recording. The address for

the Daniel Murphy Scholarship Fund is 309 West Washington Street, Suite 1250, Chicago, Illinois 60606.

September 20, 2012: Panelist, Robes in School, Chicago, Illinois. I was on a panel of judges and spoke about the benefits of a law degree. I have no notes, transcripts or recording. The address for Just the Beginning Foundation is 233 South Wacker Drive, Suite 6600, Chicago, Illinois 60606.

July 7, 2012: Judge, Operation PUSH Excel National Oratorical Contest, Chicago, Illinois. I served as one of multiple judges for an oratorical contest. I have no notes, transcript or recording. The address for Operation PUSH is 930 East 50th Street, Chicago, Illinois 60615.

April 2012, February 2010: Faculty, "You Sentenced the Defendant to What?," Education Conference, Illinois Supreme Court, Chicago Illinois. Along with other judges, I presented this 90-minute continuing judicial education class on sentencing issues. I have no notes, transcript or recording. The address for the Illinois Supreme Court is 160 North LaSalle Street, Chicago, Illinois 60601.

October 17, 2011: Panelist, Recent Developments in Post-Conviction Law, Chicago, Illinois. I was on a panel that discussed recent changes to Illinois post-conviction law. I have no notes, transcript or recording. The address for the Cook County Public Defender's Office is 69 West Washington Street, Chicago, Illinois 60602.

April 15, 2011: Featured Speaker, 37th Annual Scholarship and Awards banquet, *Creando Puentes: Nuestro Futuro, Nuestra Responsabilidad*, Chicago, Illinois. I addressed Latino law students regarding the opportunities that awaited them as future lawyers and the responsibilities they owed to the community. I have no notes, transcript or recording. The address for the Latino Law Student Association at DePaul University College of Law is 25 East Jackson Boulevard, Room 215, Chicago, Illinois 60604.

September 2, 2010: Panelist, Criminal Defense in a Nutshell IV, View from the Bench, Chicago, Illinois. I spoke to Cook County Public Defenders about the challenges of transitioning from practicing law to serving on the bench. I have no notes, transcript or recording. The address for the Cook County Public Defender's Office is 69 West Washington Street, Chicago, Illinois 60602.

June 9, 2010: Inductor, Induction Ceremony, Chicago, Illinois. I swore in the new board of the Hispanic Lawyers Association of Illinois and made no additional comments. I have no notes, transcript or recording. The address for the Hispanic Lawyers Association of Illinois is 321 South Plymouth Court, Suite 600, Chicago, Illinois 60604.

May 4, 2009: Inductor, Induction Ceremony, Park Ridge, Illinois. I swore in the

Mayor and City Clerk of Park Ridge and made no additional comments. I have no notes, transcript or recording. The address of Park Ridge City Hall is 505 Butler Place, Park Ridge, Illinois 60068.

February 21, 2009: Panelist, Sixth Annual Illinois Latino Law Forum, Chicago, Illinois. I was on a panel of judges that discussed our experiences as lawyers as well as our paths to the bench. I have no notes, transcript or recording. The address for Illinois Latino Law Students Association is 315 South Plymouth Court, Chicago, Illinois 60604.

- 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.

*Community Forum*, CAN-TV, May 27, 2005. I was interviewed for the "Community Forum" television show on CAN-TV, regarding the upcoming Puerto Rican Heritage Courthouse Tour. Along with Judge Raul Vega, I taped one half-hour show in English, and one half-hour show in Spanish. I did not speak from prepared text and created no outline or notes. CAN-TV does not have any recordings of shows prior to 2009.

Kelley Quinn, *He is Said to Have a Well Trained Eye and Ear*, Chicago Daily Law Bulletin, July 28, 2004. Copy supplied.

Barbara Brotman, *Battling Chaos, Public Defender Fights the System to get Parents, Kids, Back Together*, Chicago Tribune, July 7, 1993. 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.

I was appointed by the Supreme Court of Illinois after having been elected by the Circuit Court Judges of Cook County and took the oath of office as Associate Judge for the Cook County Judicial Circuit on April 23, 2003. After four years, I was re-appointed in July of 2007. Subsequently in July 2011, I was appointed to my third term. As an Associate Judge I have presided over state trial courts of general jurisdiction and have been granted authority to preside over felony cases by the Illinois Supreme Court.

I am presently assigned to a felony call at the Cook County Criminal Courthouse. I have been assigned to the Criminal Division since September 18, 2006. The call consists of approximately 300 cases at any given time involving charges ranging from first degree murder to Class 4 felonies. Cases are assigned to me for arraignment and remain on my call through disposition. I also preside over probation and post-conviction calls. On the post-conviction call I hear petitions brought under the Post-Conviction Hearing Act,

petitions for writ of mandamus, habeas corpus motions, as well as petitions for relief from judgment brought under the Civil Code.

Additionally, I preside over the Women’s Justice Mental Health (WJMH) call. The WJMH is an individually funded specialty call, which I aided Presiding Judge Paul P. Biebel, Jr., to structure and create. The initial grant for this court was obtained in November 2009 and the final pre-launch meetings were held in September and October of 2010. Since its implementation on November 5, 2010, the WJMH has convened on the first and third Friday of each month. The WJMH call provides intensive and long-term support and services to women suffering from trauma and addiction. I oversee a team of doctors and addiction specialists who screen applicants and develop personalized rehabilitation plans.

Between February 7, 2005 and September 18, 2006, I was simultaneously presiding in the Second Municipal District and the Criminal Division and my caseload changed on a daily basis. I heard felony and misdemeanor cases as well as traffic matters. While I was not assigned to a civil call, I did preside over many hearings on petitions to rescind statutory summary suspensions, which were civil in nature.

My first assignment as a judge, beginning on April 23, 2003, was to the First Municipal District in the Chicago Traffic Court. I heard traffic cases and civil petitions to rescind. During that time I also rotated to multiple branch courts throughout the city and heard felony preliminary hearings and misdemeanor trials.

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

I have presided over hundreds of cases that have gone to verdict or judgment. I have presided over approximately 88 jury trials.

- i. Of these, approximately what percent were:

jury trials:	25%
bench trials:	75%
civil proceedings:	10%
criminal proceedings:	90%

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

As a state court trial judge, I have only rarely issued written opinions. My trials have either involved juries or bench trials, where written opinions are uncommon and decisions are generally made from the bench. I do routinely issue written orders in post-conviction proceedings whenever I deny a post-conviction petition at the first stage. None of my opinions have been published, but the hard copies are housed with the clerk’s office.

- 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).

1. *People v. Gibson*, 06 CR 0660701

Mr. Gibson was charged with three counts of first degree murder and one charge of attempted first degree murder, as well as attempted armed robbery counts, after a botched robbery attempt left three people dead from gunshot wounds. A fourth victim was shot in the head but survived. There were no eyewitnesses who could identify Mr. Gibson as the shooter. Mr. Gibson presented an alibi defense and established that at the time of the murders, he was confined to his home. He had been placed on an electronic home detention monitoring device on an unrelated pending felony charge. No violations of the device were shown to have occurred at the relevant time. The State attempted to prove their case by way of circumstantial evidence. They introduced DNA from a bandana found near the scene of the crimes, and played a video demonstrating the route Mr. Gibson could have taken, which, they argued, would not have violated the monitoring device. Mr. Gibson waived his right to a jury trial, and I found him not guilty of all charges.

State's Attorney

Annette Milleville  
Cook County State's Attorney's Office  
2650 South California  
Chicago, Illinois 60608  
773-674-2700

Catherine D. Sanders (formerly Assistant State's Attorney)  
Triton College  
2000 5th Avenue  
River Grove, Illinois 60171  
708-828-3869

Defense Attorney

Robert Strunck (formerly Assistant Public Defender)  
Law Office of Robert Emmett Strunck  
2536 South California Avenue  
Chicago, Illinois 60608  
312-532-1286

2. *People v. Tuduj*, 06 CR 1374601

Mr. Tuduj was charged with first degree murder in the stabbing death of his employer at their worksite. The victim had decreased Mr. Tuduj's salary the day before the stabbing, and the prosecution argued that this was the motive for murder. Mr. Tuduj presented an affirmative defense of involuntary intoxication as a result of prescribed medication. During his videotaped interrogation, Mr. Tuduj was recorded lunging for a police officer's weapon. On that same recording, Mr. Tuduj initially blamed the "spirit" or "fury" of his ex-wife for his actions. She was in prison for murdering her paramour's girlfriend with a bludgeon. She committed the murder while married to Mr. Tuduj, and he was a witness against her at her trial. On the eve of his trial, Mr. Tuduj attempted to fire his attorney and to have the case continued so that he could hire new counsel. After concluding that Mr. Tuduj was attempting to delay the proceedings and that retained counsel had effectively prepared to represent their client, I denied the motion for a continuance. Mr. Tuduj waived his right to jury, against advice of counsel, and after hearing from multiple medical and psychiatric experts, I found him guilty of all charges. I sentenced him to a term of 40 years imprisonment for murder and to a consecutive term of 5 years imprisonment for disarming a peace officer. The conviction and sentence were affirmed by the appellate court. *People v. Tuduj*, 2014 IL App. (1st) 092536, 9 N.E.3d 8 (2014).

State's Attorney

Judge Stephen J. Rosenblum (formerly Assistant State's Attorney)  
Fifth Municipal District  
10220 South 76th Avenue  
Bridgeview, Illinois 60453  
708-974-6288

Michael Clark  
Cook County State's Attorney's Office  
2650 South California  
Chicago, Illinois 60602  
773-674-2700

Defense Attorneys

Thomas M. Breen and Todd Pugh  
Law Office of Breen & Pugh  
53 West Jackson Boulevard, Suite 1460  
Chicago, Illinois 60604  
312-360-1001

3. *People v. Harris*, 02 CR 1043804

Mr. Harris was one of multiple defendants charged with the gang related beating and killing of a young female victim. Mr. Harris was convicted at a bench trial of first degree murder pursuant to a theory of accountability. I sentenced him to 40 years in the Illinois Department of Corrections. The conviction and sentence were affirmed by the appellate court. *People v. Harris*, 996 N.E.2d 772 (Ill. App. Ct. 1st Dist. 2010) (unpublished table decision).

State's Attorney

Karen Kurbis  
Paul Joyce  
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2650 South California  
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773-674-2700

Defense Attorney

Ed Kozibowski  
Cook County Public Defender's Office  
2650 South California  
Chicago, Illinois 60608  
773-674-3217

4. *People v. Montgomery*, 06 CR 0635801

Mr. Montgomery was charged with first degree murder after shooting the wrong man in what he thought was retaliation for an earlier sexual assault. The victim and his friend were spotted by a female witness and incorrectly identified as men who had made inappropriate sexual advances towards her months earlier. Upon learning that the men were in the area, Mr. Montgomery and the female witness drove to search them out. He found and approached the men, and shot and killed one of them. Mr. Montgomery then fled to a suburb of Chicago. He also housed and fed the female witness in a hotel for weeks in an attempt to evade the authorities. The jury found Mr. Montgomery guilty. I sentenced him to 50 years imprisonment for the murder and a consecutive 25 years on the mandatory gun enhancement. The appellate court affirmed the conviction and sentence. *People v. Montgomery*, 996 N.E.2d 773 (Ill. App. Ct. 1st Dist. 2010) (unpublished table decision).

State's Attorney

Michael Clark  
Paul Joyce

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Defense Attorney

Stuart Goldberg  
Goldberg Criminal Defense  
980 North Michigan Avenue, Suite 1400  
Chicago, Illinois 60611  
773-327-9400

5. *People v. Sotelo*, 02 CR 2036801

Mr. Sotelo was charged with first degree murder in a gang-related shooting. The victim was drinking at the Last Chance Lounge, when he was alerted that teens were breaking his car windows with clubs. The victim, who was unaware that this was being done to lure him outside, exited the bar and was shot and killed. The issue at trial was identification. The identifying witness was on the second floor when she heard gunshots and looked out in time to see Mr. Sotelo approach the victim, who was on the ground, and shoot him again. Mr. Sotelo was wearing a hoodie at the time of the shooting, but the witness's identification, when combined with other circumstantial evidence, including third-party statements, was enough to convince the jury that the State had proven the charge of murder. I sentenced Mr. Sotelo to 45 years imprisonment. The appellate court affirmed the conviction and sentence. *People v. Sotelo*, 1 N.E.2d 121 (Ill. App. Ct. 1st Dist. 2010) (unpublished table decision).

State's Attorney

Michael Clark  
Patrick Morley  
Frank Lamas  
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2650 South California  
Chicago, Illinois 60608  
773-674-2700

Defense Attorney

Alexander M. Salerno  
Law Offices of Alexander M. Salerno  
2505 Del Plaines  
North Riverside, Illinois 60546  
708-443-5400



6. *People v. Fletcher*, 06 CR 2559801

Mr. Fletcher was charged with the first degree murder of his friend. Mr. Fletcher and the victim had argued about a loan that the victim had made to Mr. Fletcher. Mr. Fletcher drove to the victim's home while armed with a firearm and shot and killed the unarmed victim during a confrontation. After doing so, Mr. Fletcher ran to his car and left in a panic. He cut his wrists and drove his car into a pond attempting to take his own life. Mr. Fletcher asserted self-defense and was permitted, over the State's objection, to introduce prior acts of violence by the victim. The jury received a second degree murder instruction and convicted Mr. Fletcher on that charge. I sentenced Mr. Fletcher to 18 ½ years in prison. The appellate court affirmed the conviction and sentence. *People v. Fletcher*, 993 N.E.2d 148 (Ill. App. Ct. 1st Dist. 2010) (unpublished table decision).

State's Attorney

Mary Jane Murtaugh  
Michael Clark  
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773-674-2700

Defense Attorney

Samuel E. Adams  
Henderson Adam, LLC  
330 South Wells Street, Suite 300  
Chicago, Illinois 60606  
312-262-2900

7. *People v. Abdullah*, 09 CR 1246401

Mr. Abdullah was charged with shooting a waitress from the Ugly Hookah Cafe, an establishment that he frequented. Mr. Abdullah had repeatedly asked the victim out during the preceding months but she had declined his advances. On the night of the shooting, the victim and her friend had laughed at Mr. Abdullah because he had failed to remove a store tag from his pants. Mr. Abdullah waited until the victim left work and followed her in his car. He pulled up beside her and shot multiple times into her car as she told her friend on the phone that "Ali" was following her. The victim, unaware that she was shot, returned to the café and told patrons that "Ali" had thrown firecrackers at her. Police officers were summoned from across the street and called for the paramedics. The paramedics discovered that a bullet had entered victim's shoulder, traveled across the length of her back and come to a rest behind her other shoulder. Mr. Abdullah drove by the café

slowly while police and paramedics were treating the victim. Patrons announced his presence and a car chase ensued. Mr. Abdullah abandoned the car he was in and dove into the Chicago River. Although no one knew “Ali’s” last name, and the car was not registered to him, police were able to locate him the next day. He was arrested and a pile of wet clothing was recovered from his apartment. The jury convicted him of attempted first degree murder, and I sentenced him to 30 years in prison. The appellate court affirmed the conviction and sentence. *People v. Abdullah*, 2012 IL App. (1st) 110313-U, 2012 Ill. App. Unpub. LEXIS 2568 (2012).

State’s Attorney

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6000 North Lincoln Avenue, Suite 200  
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Natalie Howse  
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Defense Attorney

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312-629-0669

8. *People v. Gaston, Walker and Harris*, 09 CR 1684701-03

I initially presided over the jury trial of Mr. Gaston. I subsequently presided over the jury trial for Mr. Walker and Mr. Harris. After I granted a motion for severance, the trial of Mr. Walker and Mr. Harris proceeded simultaneously before two separate juries. Two of the defendants had been shot at while driving down a street. They returned home, picked up the third defendant, armed themselves with three firearms, and returned to the scene for revenge. Police were present, having responded to the initial call of shots fired. All three defendants opened fire, killing a young officer who was interviewing a witness. Officers canvassed the area and found a car fitting the description. They noted a fired cartridge that had lodged in the space between the trunk and the rear window of the car. All three defendants were apprehended. The Cook County State’s Attorney personally tried the cases. The State filed its notice of intent to seek the death penalty, but the death penalty was abolished in Illinois before the trials

commenced. A multitude of pre-trial motions were entertained and resolved. The evidence submitted at trial included DNA, fingerprint and gunshot residue test results. All defendants were convicted of first degree murder. I sentenced Mr. Gaston to 120 years in prison, and the appellate court affirmed the conviction and sentence. I sentenced Mr. Walker to 120 years in prison and Mr. Harris to 105 years in prison. The appeals are pending.

State's Attorney

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 Frank Merrick  
 Jeff Allen  
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 773-674-2700

Defense Attorney

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 630-717-5000

James Fryman  
 Christa Petty  
 Elizabeth Kuzaba  
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 2650 South California  
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 773-674-3217

Tod Urban and Nicole Massarello  
 Law Offices of Tod M. Urban, LTD  
 820 West Jackson Boulevard, Suite 310  
 Chicago, Illinois 60607  
 312-474-1144

9. *People v. Viramontes*, 10 CR 934102

Mr. Viramontes was charged with attempted murder and armed robbery of two women in the Bucktown neighborhood of Chicago. Mr. Viramontes used a baseball bat to beat and rob the women, one of whom was an exchange student from Northern Ireland. A girlfriend of Mr. Viramontes, who was charged as co-defendant, reached a negotiated plea agreement with the prosecution and testified

against him at trial. Pretrial issues included Mr. Viramontes' right to access her confidential mental health records, as well as the admissibility of DNA evidence. Another contested issue involved the State's introduction of a short video as demonstrative evidence. The video was used as an aid to help the mother of one of the victims describe the severity and permanency of the injuries sustained. The case received local, national and international publicity, which posed additional challenges. I presided over the jury trial, which resulted in Mr. Viramontes' conviction, and I thereafter sentenced him to 90 years in prison. The appeal is pending.

State's Attorney

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John Maher  
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Defense Attorney

Chandra Smith  
Richard Labrador  
David Dunne  
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10. *People v. Sansberry*, 10 CR 549501

Mr. Sansberry was a 15-year-old charged with shooting and paralyzing a 14-year-old victim. Mr. Sansberry attended a party at the victim's sister's apartment and, after becoming rowdy, was asked to leave. Mr. Sansberry waited outside of the home and a fight eventually broke out. The victim was beaten up by multiple people and then shot in the face. The victim and his family could not identify who shot him and, despite the fact that the shooting took place in front of a large crowd, police received very little assistance in their investigation. I permitted the prosecution to introduce prior statements of reluctant witnesses as substantive evidence, as well as the third-party statements of Mr. Sansberry. The jury convicted Mr. Sansberry of attempted murder. I sentenced him to 20 years in prison. His appeal is pending.

State's Attorney

Karen Kurbis

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Defense Attorney

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- 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.

As a state court trial judge, I typically have not issued written opinions in the course of my trials. I do, however, routinely issue written orders in post-conviction proceedings whenever I deny a petition at the first stage. The following is a list of the one written order that I could recall related to the denial of a motion to reconsider a sentence, as well as nine post-conviction orders. In the post-conviction system used by our court, the Cook County State's Attorney's Office does not assign a specific prosecutor to the case in the first stage of the proceeding. The post-conviction unit of the Cook County State's Attorney's Office simply monitors the status of the case. Because the nine post-conviction opinions included below were issued at this stage, I have provided general information for the Cook County State's Attorney's Office, rather than individual prosecutors.

1. *People v. Garcia*, 99 CR 2620401. Copy supplied

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Defense Attorney

David F. Will

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312-262-2909

2. *People v. Anderson*, 93 CR 1538801 and 93 CR 1538809. Copy supplied.

State's Attorney

Post-Conviction Unit  
Cook County State's Attorney's Office  
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Chicago, Illinois 60608  
773-674-2700

Petitioner Appellant

Pro se

3. *People v. Bowman*, 83 CR 0981601. Copy supplied.

State's Attorney

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773-674-2700

Petitioner Appellant

Pro se

4. *People v. Duncan*, 03 CR 2716501. Copy supplied.

State's Attorney

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Cook County State's Attorney's Office  
2650 South California  
Chicago, Illinois 60608  
773-674-2700

Petitioner Appellant

Pro se

5. *People v. Russell*, 00 CR 1175901. Copy supplied.

State's Attorney

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Chicago, Illinois 60608  
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Petitioner Appellant

Pro se

6. *People v. Lyod*, 03 CR 0483601. Copy supplied.

State's Attorney

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Cook County State's Attorney's Office  
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Chicago, Illinois 60608  
773-674-2700

Petitioner Appellant

Pro se

7. *People v. Matthews*, 09 CR 1856401. Copy supplied.

State's Attorney

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Cook County State's Attorney's Office  
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Chicago, Illinois 60608  
773-674-2700

Petitioner Appellant

Pro se

8. *People v. Pointer*, 08 CR 0121001. Copy supplied.

State's Attorney

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Chicago, Illinois 60608  
773-674-2700

Petitioner Appellant

Pro se

9. *People v. Taylor*, 08 CR 2246102. Copy supplied.

State's Attorney

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Cook County State's Attorney's Office  
2650 South California  
Chicago, Illinois 60608  
773-674-2700

Petitioner Appellant

Pro se

10. *People v. Williams*, 10 CR 0349601. Copy supplied.

State's Attorney

Post-Conviction Unit  
Cook County State's Attorney's Office  
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Chicago, Illinois 60608  
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Petitioner Appellant

Pro se

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

I am not aware of any cases in which certiorari was granted or requested.

- 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.

To the best of my knowledge, the following cases represent a summary of and citations for all of my decisions that were reversed by a reviewing court. It is possible that there are other cases where my rulings and findings have been modified, if not reversed. I have listed the cases I have been able to identify in alphabetical order.

*People v. Andrade*, Docket No. 10 CR 1309401 (Circuit Court of Cook County 2012), *rev'd in part*, 2014 IL App. (1st) 113786-U, 2014 Ill. App. Unpub. LEXIS 363 (Ill. App. Ct. 2014): Mr. Andrade was convicted of four counts of aggravated unlawful use of a weapon and sentenced to probation. A portion of his conviction was reversed pursuant to the intervening decision in *People v. Aguilar*, 2013 IL 112116, 2 N.E.3d 321 (2013), which had found the form of one of the counts charged to be unconstitutional.

*People v. Baines*, Docket No. 05 CR 1551401 (Circuit Court of Cook County, 2008), *rev'd*, 927 N.E.2d 158 (Ill. App. Ct. 1st Dist. 2010): Mr. Baines was convicted after a jury trial on charges of armed robbery and attempted first degree murder. The Illinois Appellate Court reversed and remanded for a new trial due to ineffective assistance of counsel, despite finding that the record was replete with efforts by me to ensure that the trial was conducted fairly. Mr. Baines subsequently waived his right to jury trial before me, and I found him not guilty at re-trial.

*People v. Barnes*, Docket No. 07 CR 2286101 (Circuit Court of Cook County 2011), *rev'd*, 2013 IL App. (1st) 120057-U, 2013 Ill. App. Unpub. LEXIS 2138 (Ill. App. Ct. 2013): Mr. Barnes appealed an order dismissing his post-conviction petition at the first stage. The appellate court reversed, holding that the Petitioner's allegation that appellate counsel was ineffective was sufficient to express a claim of constitutional deprivation. On remand, the petition advanced to the second stage. Dismissal Order supplied

*People v. Brooks*, Docket No. 91 CR 2114704 (Circuit Court of Cook County 2011), *rev'd*, 012 IL App. (1st) 090104-U, 2012 Ill. App. Unpub. LEXIS 2772 (Ill. App. Ct. 2012): Mr. Brooks appealed the dismissal of his post-conviction petition at the second stage. The appellate court reversed, concluding that Mr. Brooks was entitled to an evidentiary hearing on the issue of whether the trial counsel was ineffective in failing to call a witness.

*People v. DeNeal*, Docket No. 08 CR 1298701 (Circuit Court of Cook County 2009), *rev'd in part*, 997 N.E.2d 1008 (Ill. App. Ct. 1st Dist. 2011): Mr. DeNeal was convicted of possession of a controlled substance following a bench trial and sentenced to two-and-a-half-years imprisonment. Although the appellate court upheld the sentence, it did reverse the imposition of a five-dollar court fee.

*People v. Johnson*, Docket No. 08 CR 1255701 (Circuit Court of Cook County 2009), *rev'd in part*, 997 N.E.2d 1009 (Ill. App. 1st Dist. 2010) (unpublished table decision), 2011 IL 111817, 959 N.E.2d 1150 (Ill. 2011): I found Mr. Johnson guilty of the lesser included offense of possession of a controlled substance, and I sentenced him to a term in the penitentiary. I imposed several mandatory monetary charges, including a \$200 DNA analysis charge pursuant to the Illinois Uniform Code of Corrections. Mr. Johnson received credit for pre-trial time in custody and, per statute, this time credit was used to offset any fines. The appellate court ruled that the DNA charge was not meant to be punitive and, therefore, was not a fine. The Illinois Supreme Court agreed and held that Mr. Johnson was not entitled to the offset I had awarded him. The conviction and sentence were affirmed in all other respects.

*People v. Long*, Docket No. 10 CR 1902101 (Circuit Court of Cook County 2011), *rev'd in part*, 2013 IL App. (1st) 112703-U, 2013 Ill. App. Unpub. LEXIS 1595 (Ill. App. 1st Dist. 2013): Mr. Long was convicted of burglary and possession of burglary tools and was sentenced to eight years on the burglary charge and an extended term sentence of six years on the possession of burglary tools charge. I ordered the sentences to run concurrently for a total of eight years. The appellate court reversed as to Mr. Long's extended term sentence because the possession of burglary tools was not the most serious class of offense. The court reduced the sentence on the possession of burglary tools charge to three years, as well as modifying the fines and fees.

*People v. Minniefield*, Docket No. 03 CR 128401 (Circuit Court of Cook County, 2008), *rev'd*, 988 N.E.2d 1124 (Ill. App. Ct. 1st Dist. 2010) (unpublished table decision): I summarily denied Mr. Minniefield's pro se petition for relief under the Post-Conviction Act, alleging trial counsel was ineffective for failing to investigate and present witnesses and failing to request an involuntary manslaughter jury instruction. The appellate court reversed and remanded for second stage proceedings. Dismissal Order supplied.

*People v. Nelson*, Docket No. 87 CR 35301 (Circuit Court of Cook County 2008), *rev'd*, 985 N.E.2d 1080 (Ill. App. Ct. 1st Dist. 2009) (unpublished table decision): Mr. Nelson, who was serving a life sentence for first degree murder, filed multiple motions and petitions, several of which were before me. Mr. Nelson filed a pro se motion for relief from judgment under Section 2-1401 of the Code of Civil Procedure. My sua sponte denial of the motion was vacated by the Illinois Appellate court because the 30-day time period had not elapsed as required under *People v. Laugharn*, 233 Ill. 2nd 318 (2009).

*People v. Roland*, Docket No. 02 CR 2663001 (Circuit Court of Cook County 2008), *rev'd*, No. 990 N.E.2d 931 (Ill. App. Ct. 1st Dist. 2010) (unpublished table decision): I summarily denied Mr. Roland's pro se petition for relief under the Post-Conviction Act alleging trial counsel was ineffective for failing to

investigate his psychiatric history. The Illinois Appellate court reversed and remanded for second stage proceedings. Dismissal Order supplied.

*People v. Tagle*, Docket No. 08 CR 1637801 (Circuit Court of Cook County 2012), *rev'd*, 2014 IL App. (1st) 121613-U, 2014 Ill. App. Unpub. LEXIS 1320 (Ill. App. Ct. 1st Dist. 2014): Mr. Tagle pled guilty to murdering his wife, pursuant to a negotiated guilty plea, and was sentenced to 20 years in prison. At Mr. Tagle's request, defense counsel filed a motion to withdraw his guilty plea. I denied the motion. The appellate court vacated, concluding that although counsel had filed the required certificate under Supreme Court Rule 604(d) before proceeding on Mr. Tagle's motion, the certificate did not strictly comply with the requirements of the rule. The case was remanded for further proceedings on Mr. Tagle's motion to withdraw his guilty plea.

*People v. Thurston*, Docket No. 93 CR 2428901 (Circuit Court of Cook County 2008), *rev'd*, 988 N.E.2d 242 (Ill. App. Ct. 1st Dist. 2010) (unpublished table decision): Mr. Thurston appealed an order denying him leave to file a motion to show cause. The appellate court found that the motion should not have been re-characterized as a post-conviction petition, and ordered the denial reversed and remanded the case with instructions.

*People v. Williams*, Docket No. 08 CR 2084901 (Circuit Court of Cook County 2010), *rev'd*, 2014 IL App. (1st) 093211-U, 2014 Ill. App. Unpub. LEXIS 1013: Mr. Williams was convicted by jury and sentenced to probation on an aggravated use of a weapon charge. The conviction was reversed because the form of the offense for which Mr. William was convicted was subsequently held to be unconstitutional by the Illinois Supreme Court, pursuant to *People v. Aguilar*, 2013 IL 112116, 2 N.E.3d 321 (Ill. 2013).

In addition to the above cases, I was reversed by the Illinois Appellate Court in cases *People v. Garcia*, 922 N.E.2d 495 (Ill. App. Ct. 1st Dist. 2009) and *People v. Easley*, 2012 IL App. (1st) 110023, 983 N.E.2d 69. However, both of those appellate court decisions were later reversed by the Illinois Supreme Court in *People v. Garcia*, 948 N.E.2d 32 (Ill. 2011), and *People v. Easley*, 2014 IL 115581, 7 N.E.3d 667, and the convictions and sentences that I entered were affirmed.

- 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.

As a state court trial judge, I typically have not issued written opinions in the course of my trials although I have regularly issued written orders when I denied a post-conviction petition at the first stage. None of these orders has been published, although they are on file with the Clerk's office.

- 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 have not written or issued any significant opinions on federal or state constitutional issues although I routinely rule on Fourth and Fifth Amendment issues in the course of presiding over pre-trial motions, trials and in post-conviction proceedings.

- 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 sat by designation on any federal courts of appeal.

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.

The Illinois Code of Judicial Conduct and Illinois Supreme Court Rule 63 govern the judicial duties and responsibilities of judges in Illinois. Pursuant to Canon 3C(1) of the Code, a judge is required to disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where the judge knows that he or she has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other more than de minimis interest that could be substantially affected by the proceeding. I have always complied with the requirements. I make determinations on a case-by-case basis.

To the best of my recollection no one has asked me to recuse myself. I have, however, recused myself sua sponte from the following cases:

*People v. Finley and Murphy*, 05 CR 2421201-02: In this drug case the co-defendants had alleged police misconduct/brutality and had obtained disciplinary files from the Chicago Police Department. During an in-camera review of these files, I became aware of the fact that an attorney, who was a personal friend of mine, had filed a complaint against one of the officers. I fully disclosed this information to the prosecutors and counsel for each defendant. I then recused myself and transferred the case to my presiding judge for reassignment.

*People v. Triplet*, 10 CR 792901: On the day this case was set for litigation, a police officer/witness recognized me from years earlier. We had both volunteered at Muscular Dystrophy Association summer camps. I disclosed the information to all parties, stated that I would not be influenced by the relationship and asked the attorneys whether I should remove myself from the case. The parties asked for time to consider the issue. Sensing some hesitancy from one of the attorneys, I recused myself.

*People v. Moore*, 14 CR 710201: Defendant was accused of committing an Aggravated Battery in open court before a different judge. Many of the eyewitnesses were court personnel including an Assistant State's Attorney who had been assigned to my courtroom for two years. As a result, I recused myself.

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.

Aside from judicial office, I have never held public office, nor have I ever run for public office.

- 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.

In 2002, I was a field volunteer for Roberto Maldonado's re-election campaign to the Cook County Board of Commissioners. I canvassed, assisted with voter registration and served as a poll watcher.

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 never served as a clerk to a judge.

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

I have never practiced 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.

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69 West Washington Street, 16th Floor  
Chicago, Illinois 60602  
Assistant Public Defender

- 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 never served as a mediator or arbitrator before my appointment as Associate Judge.

b. Describe:

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

My legal career involved the representation of indigent individuals in criminal and civil proceedings. My career began on the civil side in the Child Protection Division, representing parents who were alleged to have abused or neglected their children. I also represented parents in Termination of Parental Rights proceedings. I then worked in the Juvenile Justice Division, where I represented children accused of crimes. Thereafter, I worked in the Felony Trial Division representing adults charged with felony offenses.

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

My clients were the indigent accused.

- 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.

100% of my practice was in litigation. As an assistant public defender, I appeared in court on a daily basis.

- i. Indicate the percentage of your practice in:
 

1. federal courts:	0%
2. state courts of record:	100%
3. other courts:	0%
4. administrative agencies:	0%

- ii. Indicate the percentage of your practice in:
 

1. civil proceedings:	10%
2. criminal proceedings:	90%

- 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.

During my tenure as an assistant public defender, I participated in approximately 30 jury trials and approximately 150 bench trials to final judgment. I was lead counsel in approximately 15 of the jury trials and second chair counsel in the other 15 jury trials. I served as sole or chief counsel on all of the bench trials.

- i. What percentage of these trials were:
 

1. jury:	17%
2. non-jury:	83%

- 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 never practiced before the Supreme Court of the United States.

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.

The following are ten cases that I personally handled as lead counsel. The information requested dates back a minimum of 11 years and, unfortunately, I do not have access to my former files or records relating to my employment with the Cook County Public Defender's Office. This list is compiled based upon memory, limited personal records, and access to the Clerk's computer system.

1. *People v. Lindsey*, 97 CR 1819401 (Circuit Court of Cook County, March 15, 1999), Judge Stanley Sacks.

I represented Mr. Lindsey, who was charged with multiple armed robbery counts. Mr. Lindsey was captured on video entering an auto repair shop and robbing employees and a patron. He was convicted by a jury and sentenced to 35 years in the Illinois Department of Corrections:

Co-Counsel

Thomas Brice (deceased)

State's Attorney

Judge Laura Bertucci (formerly Assistant State's Attorney)  
555 West Harrison, Room 201  
Chicago, Illinois 60607  
773-325-9003

Michael J. Nolan (formerly Assistant State's Attorney)  
The Law Office of Michael J. Nolan, P.C.  
7133 West Higgins Avenue  
Chicago, Illinois 60656  
773-631-5582



2. *People v. Fields*, 98 CR 517401 (Circuit Court of Cook County, October 18, 1999), Judge Stanley Sacks.

I represented Mr. Fields, who was charged with first degree murder in a gang-related shooting. The 11-year-old sister of the deceased testified at trial and she identified Mr. Fields as the shooter. She was impeached by prior inconsistent statements. Another eyewitness was exposed as a drug addict during cross-examination, and as a result, I was able to obtain a Non-Illinois Pattern Jury Instruction regarding the lack of reliability of testimony of a drug addict. The jury acquitted Mr. Fields on all charges.

Co-Counsel

Thomas Brice (deceased)

State's Attorney

Kathy Hufford  
Cook County State's Attorney's Office  
2650 South California  
Chicago, Illinois 60608  
773-674-2700

Michael J. Nolan (formerly Assistant State's Attorney)  
The Law Office of Michael J. Nolan, P.C.  
7133 West Higgins Avenue  
Chicago, Illinois 60656  
773-631-5582

3. *People v. Davis*, 99 CR 1746001 (Circuit Court of Cook County, October 22, 1999), Judge Stanley Sacks.

I represented Mr. Davis, who was charged with burglary of a church. Officers responded to an alarm at a church and saw Mr. Davis exiting through a broken window. Proceeds from the church were found in proximity to Mr. Davis. Mr. Davis was convicted by a jury and sentenced by Judge Sacks to ten years in the Illinois Department of Corrections. The conviction and sentence were affirmed on appeal. *People v. Davis*, 783 N.E.2d 237 (IL App. Ct. 1st Dist. 2000).

Co-Counsel

Robert W. Johnson (formerly Assistant Public Defender)  
Smith, Johnson and Antholt  
1 North LaSalle, Suite 3040  
Chicago, Illinois 60602  
773-485-2267

State's Attorney

Judge Laura Bertucci (formerly Assistant State's Attorney)  
 555 West Harrison, Room 201  
 Chicago, Illinois 60607  
 773-325-9003

4. *People v. Cross*, 98 CR 2362701 (Circuit Court of Cook County, March 31, 2000),  
 Judge Stanley Sacks.

I represented Mr. Cross. On August 6, 1998, he was arrested for sexually assaulting a young woman at knifepoint. Mr. Cross maintained that the sexual contact was consensual and that he had given the complainant money and drugs in exchange for sex. At the initial jury trial, the complainant testified. The jury returned a verdict of not guilty on aggravated kidnapping counts but was hung on the sexual assault charges. At the second jury trial, the court granted the State's motion to declare complainant unavailable and to proceed by using her earlier testimony. The jury found Mr. Cross guilty of sexual assault counts but not guilty on the aggravated criminal sexual assault charges. He was sentenced to a 60 years extended term sentence. Mr. Cross appealed, and the Illinois Appellate Court affirmed the conviction and sentence. Although I did not represent him in his federal proceedings, Mr. Cross filed a federal habeas petition pursuant to 28 U.S.C. section 2254, which the district court denied. Mr. Cross petitioned the United States Court of Appeals for the Seventh Circuit, which found that the State had failed to demonstrate that it employed good faith efforts to locate the complainant and that the state appellate court unreasonably applied federal law when it concluded that the complainant was unavailable. The United States Supreme Court thereafter reversed the decision of the U.S. Court of Appeals for the Seventh Circuit. *Handy v. Irving Cross*, 132 S. Ct. 490, (2011).

Co-Counsel

Thomas Brice (deceased)

State's Attorney

Judge Angela Petrone (formerly Assistant State's Attorney)  
 2600 South California, Room 3A15  
 Chicago, Illinois 60608  
 773-674-3160

Michael J. Nolan (formerly Assistant State's Attorney)  
 The Law Office of Michael J. Nolan, P.C.  
 7133 West Higgins Avenue

Chicago, Illinois 60656  
773-631-5582

5. *People v. Smith*, 99 CR 11101 (Circuit Court of Cook County, October 1, 2001), Judge Stuart Palmer.

I represented Mr. Smith, who was one of several co-defendants charged with first degree murder. Mr. Smith was tried simultaneously with a co-defendant at a double jury trial. Testimony revealed that he was involved in a verbal altercation with the victim and that a rock was thrown at his car as he drove away. He returned to the scene through an alley and shots were fired killing the victim. Mr. Smith made an inculpatory statement to the police. Mr. Smith was convicted by a jury and sentenced to 28 years in the Illinois Department of Corrections. The conviction and sentence were affirmed on appeal. *People v. Smith*, 343 Ill. App. 3d 1294 (1st Dist. 2003) (unpublished table decision).

Co-Counsel

Rodney Carr  
Cook County Public Defender's Office  
2650 South California  
Chicago, Illinois 60608  
773-674-3217

State's Attorney

Karen O'Malley  
Cook County State's Attorney's Office  
2650 South California  
Chicago, Illinois 60608  
773-674-2700

Lisa Callahan (deceased)

McCray Judge (formerly Assistant State's Attorney)  
Swanson, Martin and Bell  
330 North Wabash Avenue, Suite 3300  
Chicago, Illinois 60611  
312-321-9100

6. *People v. Terry*, 02 CR 738701 (Circuit Court of Cook County, July 2002), Judge James Linn.

I represented Mr. Terry, who was charged with possession of a stolen motor vehicle. Despite calling a defense witness and requesting a lesser-included jury instruction on

the charge of theft, Mr. Terry was convicted by a jury and sentenced by Judge Linn to five years in the Illinois Department of Corrections.

Co-Counsel

Rogelio Garcia (formerly Assistant Public Defender)  
 McCready, Garcia and Leet, P.C.  
 10008 South Western Avenue  
 Chicago, Illinois 60643  
 773-779-9885

State's Attorney

Kent Delgado (formerly Assistant State's Attorney)  
 Dan Tiernan (formerly Assistant State's Attorney)  
 Delgado, Adams and Tiernan  
 53 West Jackson, Suite 1650  
 Chicago, Illinois 60604  
 312-786-9680

7. *People v. Davis*, 01 CR 0116001 (Circuit Court of Cook County, January 16, 2003), Judge James Linn.

I represented Mr. Davis, who was charged with first degree murder. The State alleged that Mr. Davis felt he had been cheated out of money by the victim and told a friend that he was going to start a fight with the victim and then rob him. A fight ensued, during which Mr. Davis retrieved a firearm from his backpack and shot the victim, killing him. Mr. Davis asserted justifiable self-defense, but was convicted by a jury and sentenced to 27 years in the Illinois Department of Corrections. The conviction and sentence were affirmed on appeal. *People v. Davis*, 936 N.E.2d 1226 (Ill. App. Ct. 1st Dist. 2007) (unpublished table decision).

Co-Counsel

Rogelio Garcia (formerly Assistant Public Defender)  
 McCready, Garcia and Leet, P.C.  
 10008 South Western Avenue  
 Chicago, Illinois 60643  
 773-779-9885

State's Attorney

Kathleen Van Kampen  
 Cook County State's Attorney's Office  
 2650 South California

Chicago, Illinois 60608  
773-674-2700

Dan Tiernan (formerly Assistant State's Attorney)  
Delgado, Adams and Tiernan  
53 West Jackson, Suite 1650  
Chicago, Illinois 60604  
312-786-9680

8. *People v. Dorbin*, 98 CR 1413803 (Circuit Court of Cook County, December 7, 2001), Judge Bertina Lampkin.

I represented Mr. Dorbin, who was one of multiple co-defendants charged with first degree murder. I filed a motion to quash arrest and suppress evidence, which was granted after a hearing. The court ruled that Mr. Dorbin had been arrested without probable cause. Pursuant to that motion, inculpatory statements made by Mr. Dorbin to the police were suppressed. The State was unsuccessful at the attenuation hearing that followed, and as a result, dismissed all charges.

State's Attorney

Judge Domenica Stephenson (formerly Assistant State's Attorney)  
2600 South California, Room 3A15  
Chicago, Illinois 60608  
773-674-3160

9. *In Re S.J.*, docket unknown, (Circuit Court of Cook County, March 1998), Judge Stuart Lubin.

I represented S.J., a minor respondent, who was charged with first degree murder in Juvenile Court. During the bench trial, I was able to introduce statements made by the victim as excited utterances. The victim had been comatose for weeks and upon waking blurted out statements that cast doubt on S.J.'s guilt. S.J. was found not guilty at a bench trial before Judge Lubin.

State's Attorney

David Weiner  
Cook County State's Attorney's Office  
2650 South California  
Chicago, Illinois 60608  
773-674-2700

10. *People v. Newbern*, 99 CR 0808501 (Circuit Court of Cook County, May 2001), Judge Stuart Palmer.

I represented Mr. Newbern, who was charged with burglary in the Miles Square Health Center in Chicago. Mr. Newbern allegedly entered the establishment to steal computer equipment. He was accused of planning this burglary with a security guard. The jury convicted Mr. Newbern, and Judge Palmer sentenced him to seven years in the Illinois Department of Corrections. Mr. Newbern appealed. I do not recall the outcome of the appeal, and despite diligent efforts, I have been unable to locate the appellate decision.

Co-Counsel

Robert W. Johnson (formerly Assistant Public Defender)  
Smith, Johnson and Antholt  
1 North LaSalle, Suite 3040  
Chicago, Illinois 60602  
773-485-2267

State's Attorney

Lisa Callahan (deceased)

McCray Judge (formerly Assistant State's Attorney)  
Swanson, Martin and Bell  
330 North Wabash Avenue, Suite 3300  
Chicago, Illinois 60611  
312-321-9100

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.)

Since becoming a judge, I have devoted myself to training other judges on our courts, including teaching seminars to new judges and continuing judicial education courses for members of the bench in Illinois.

As part of my duties as a judge, I have helped Presiding Judge Paul P. Biebel, Jr., to create the Women's Justice Mental Health (WJMH) call. Since its implementation on November 5, 2010, the WJMH has convened on the first and third Friday of each month. The WJMH call provides intensive and long-term support and services to women suffering from trauma and addiction. I oversee a team of doctors and addiction specialists who screen applicants and develop personalized rehabilitation plans. I have presided over this specialty call since its inception.

Additionally, I have volunteered with the Lawyers' Assistance Program (LAP) since 2003. The LAP is a not-for-profit organization that helps Illinois lawyers, judges, law students and their families with alcohol abuse, drug dependency or mental health problems. We try to address problems before they jeopardize careers or clients. The LAP organizes a team of trained volunteers that meet with concerned family and friends to plan and then conduct an intervention in order to encourage recovery.

I have never performed any 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.

I have no deferred income arrangements. As a state court judge, upon retirement, I will receive payments from the State of Illinois Judges Retirement System.

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 plans, commitments, or agreements to pursue outside employment if confirmed.

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 not participate in any cases in which I had prior knowledge of the facts based upon my present employment as a state court judge. In addition, my wife and I hold certain investments in accounts that could constitute financial interests that might reasonably be perceived as constituting a conflict. I am not aware of any other associations or interests held by myself or my family that might present a potential conflict of interest.

- 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 would be guided by 28 U.S.C. section 455 and Canon 3 of the Code of Conduct for United States Judges, and any other relevant statutes, ethical canons, and rules. I would take steps to ensure that I was well informed regarding all financial or professional interests that I held, or that another close family member held, that could present a potential conflict or give the appearance that I lacked impartiality regarding any matter before me. I would recuse myself from any matter in which my impartiality could be reasonably questioned.

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.

As a judge, I am not permitted to practice law, so I have not engaged in any pro-bono representation, although I have participated in the community in other ways. For example, in early 2011, with the help of one Assistant State's Attorney and one Assistant Public Defender, I formed 26th Street Readers. For two school years, our group of approximately 15 lawyers volunteered on a rotating basis. We worked with a group of children and one dedicated teacher on a weekly basis for tutoring. I continue to be involved in a host of groups that serve the disadvantaged, including the Daniel Murphy Scholarship Fund, Cristo Rey Jesuit High School and Lawyers' Assistance Program. The Daniel Murphy Scholarship Fund provides high school scholarship assistance and educational support to Chicago students from economically disadvantaged backgrounds. Cristo Rey Jesuit High School offers an excellent college preparatory education for children of families of Chicago's southwest side. It is the founding school for the nationwide Cristo Rey network and pioneered the corporate internship program. The Lawyers' Assistance Program is a not-for-profit organization founded to help Illinois lawyers, judges, law students and their families with alcohol abuse, drug dependency or mental



health problems. Services provided include education, information and referral, peer assistance, and intervention.

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 August 31, 2012, I submitted a judicial application to Senator Richard Durbin's judicial selection committee. On October 9, 2012, I interviewed with a sub-group of the committee in Chicago, Illinois. On October 12, 2012, I interviewed with the full committee in Chicago, Illinois. On December 7, 2012, Senator Durbin interviewed me in Chicago, Illinois. On January 14, 2013, I received a telephone call from Senator Durbin's staff informing me that my name was being submitted to the White House. On June 11, 2014, I received a telephone call from Senator Durbin's staff informing me that I would be moving forward. Since that date, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 14, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On August 5, 2014, 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.

AO 10\*  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Alonso, Jorge L.	2. Court or Organization United States District Court, Northern District of Illinois	3. Date of Report 08/05/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Court	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination      Date 08/05/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/01/2013 to 07/28/2014
7. Chambers or Office Address George N. Leighton Criminal Courthouse 2600 South California Avenue Courtroom 207 Chicago, Illinois 60608		
<b>IMPORTANT NOTES:</b> The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.		

**I. POSITIONS.** (Reporting individual only; see pp. 9-13 of filing instructions.)

NONE (No reportable positions.)

POSITION	NAME OF ORGANIZATION/ENTITY
1. Director	Daniel Murphy Scholarship Fund
2. Junior Board Member	Cristo Rey Jesuit High School
3. Associate Judge	Circuit Court of Cook County, State of Illinois
4.	
5.	

**II. AGREEMENTS.** (Reporting individual only; see pp. 14-16 of filing instructions.)

NONE (No reportable agreements.)

DATE	PARTIES AND TERMS
1. 2003	Judges' Retirement System of Illinois
2.	
3.	

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Alonso, Jorge L.	<b>Date of Report</b> 08/05/2014
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**III. NON-INVESTMENT INCOME.** *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

**A. Filer's Non-Investment Income**

NONE *(No reportable non-investment income.)*

	<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> <small>(yours, not spouse's)</small>
1.	2012	State of Illinois/salary	\$168,083.69
2.	2013	State of Illinois/salary	\$168,844.51
3.	2014	State of Illinois/salary	\$101,916.50
4.			

**B. Spouse's Non-Investment Income** - *If you were married during any portion of the reporting year, complete this section.*  
*(Dollar amount not required except for honoraria.)*

NONE *(No reportable non-investment income.)*

	<u>DATE</u>	<u>SOURCE AND TYPE</u>
1.	2013	self-employed attorney
2.	2014	self-employed attorney
3.		
4.		

**IV. REIMBURSEMENTS** - *transportation, lodging, food, entertainment.*  
*(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*

NONE *(No reportable reimbursements.)*

	<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1.	Exempt				
2.					
3.					
4.					
5.					

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<b>Name of Person Reporting</b> Alonso, Jorge L.	<b>Date of Report</b> 08/05/2014
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**V. GIFTS.** (Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)

NONE (No reportable gifts.)

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1. Exempt			
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** (Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)

NONE (No reportable liabilities.)

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.	American Education Services	education loan	J
2.	Northwestern Mutual	loan from life insurance policy	J
3.			
4.			
5.			

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<b>Name of Person Reporting</b> Alonso, Jorge L.	<b>Date of Report</b> 08/05/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period				D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)		
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)		
1. American Funds Bond Fund of America	A	Int./Div.	J	T	Exempt						
2. American Funds EuroPacific Growth Fund	A	Int./Div.	J	T	Exempt						
3. American Funds Growth Fund of America	A	Int./Div.	J	T	Exempt						
4. American Funds Intermediate Fund of America	A	Int./Div.	J	T	Exempt						
5. American Funds New Economy Fund	A	Int./Div.	J	T	Exempt						
6. American Funds New Perspective Fund	A	Int./Div.	J	T	Exempt						
7. American Funds SMALLCAP World Fund	A	Int./Div.	J	T	Exempt						
8. American Funds The Investment Company of America	A	Int./Div.	J	T	Exempt						
9. American Funds Washington Mutual Investors Fund	A	Int./Div.	J	T	Exempt						
10. ASTON/Fairpointe Mid Cap Fund	A	Int./Div.	J	T	Exempt						
11. BlackRock High Yield Bond Fund	A	Int./Div.	J	T	Exempt						
12. Bright Start Age-Based 10-11 Years Portfolio 529	C	Int./Div.	K	T	Exempt						
13. Bright Start Age-Based 12-14 Years Portfolio 529	C	Int./Div.	K	T	Exempt						
14. Causeway International Value Fund	A	Int./Div.	J	T	Exempt						
15. Cohen & Steers Real Estate Securities Fund	A	Int./Div.	J	T	Exempt						
16. Columbia Acorn Funds	A	Int./Div.	J	T	Exempt						
17. Delaware Emerging Markets Fund	A	Int./Div.	J	T	Exempt						

1. Income Gain Codes: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000; F = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H = \$1,000,001 - \$5,000,000; I = \$5,000,001 - \$25,000,000; J = \$25,000,001 - \$50,000,000; K = \$50,000,001 - \$100,000,000; L = \$100,000,001 - \$500,000,000; M = \$500,000,001 - \$1,000,000,000; N = \$1,000,001 - \$500,000; O = \$500,001 - \$1,000,000; P = \$1,000,001 - \$5,000,000; Q = \$5,000,001 - \$25,000,000; R = Cost (Real Estate Only); S = Assessment; T = Cash Market; U = Book Value; V = Other; W = Estimated.

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<b>Name of Person Reporting</b> Alonso, Jorge L.	<b>Date of Report</b> 08/05/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (includes those of spouse and dependent children; see pp. 34-69 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period				D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)		
18. Federated Institutional High Yield Bond Fund	A	Int./Div.	J	T	Exempt						
19. Fidelity Puritan Fund	A	Int./Div.	J	T	Exempt						
20. Goldman Sachs Emerging Markets Debt Fund	A	Int./Div.	J	T	Exempt						
21. Goldman Saks Small Cap Value Fund	A	Int./Div.	J	T	Exempt						
22. Harbor International Fund	A	Int./Div.	J	T	Exempt						
23. Invesco International Growth Equity Trust	A	Int./Div.	J	T	Exempt						
24. iShares MSCI EAFE ETF	A	Int./Div.	J	T	Exempt						
25. iShares Russell 2000ETF	A	Int./Div.	J	T	Exempt						
26. iShares Russell Midcap Index ETF	A	Int./Div.	J	T	Exempt						
27. JPMorgan Core Bond Select Fund	A	Int./Div.	J	T	Exempt						
28. JPMorgan Emerging Markets Equity Fund	A	Int./Div.	J	T	Exempt						
29. JPMorgan High Yield Fund	A	Int./Div.	J	T	Exempt						
30. JPMorgan International Value Fund	A	Int./Div.	J	T	Exempt						
31. JPMorgan Liquid Assets Money Market Fund		None	J	T	Exempt						
32. JPMorgan Mid Cap Equity Fund	A	Int./Div.	J	T	Exempt						
33. JPMorgan Short Duration Bond Fund	A	Int./Div.	J	T	Exempt						
34. JPMorgan Small Cap Equity Fund	A	Int./Div.	J	T	Exempt						

1. Income Code: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000  
 (See Columns B1 and D4) F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H=\$1,000,001 - \$5,000,000; I=\$5,000,001 - \$10,000,000; J=\$10,000,001 - \$50,000,000; K=\$50,000,001 - \$100,000,000; L=\$100,000,001 - \$500,000,000; M=\$500,000,001 - \$1,000,000,000; N=\$1,000,000,001 - \$5,000,000,000; O=\$5,000,000,001 - \$10,000,000,000; P=\$10,000,000,001 - \$50,000,000,000; Q=\$50,000,000,001 - \$100,000,000,000; R=Cash; S=Assessment; T=Cash Market; U=Book Value; V=Other; W=Estimated

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<b>Name of Person Reporting</b> Alonso, Jorge L.	<b>Date of Report</b> 08/05/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
35. JPMorgan US Equity Fund	A	Int./Div.	J	T	Exempt				
36. JPMorgan Value Advantage Fund	A	Int./Div.	J	T	Exempt				
37. MFS Emerging Market Debt Fund	A	Int./Div.	J	T	Exempt				
38. MFS Massachusetts Investors Trust	A	Int./Div.	J	T	Exempt				
39. Oakmark Fund	A	Int./Div.	J	T	Exempt				
40. Oppenheimer Developing Markets Fund	A	Int./Div.	J	T	Exempt				
41. PIMCO Short Term Fund	A	Int./Div.	J	T	Exempt				
42. PIMCO Total Return Fund	A	Int./Div.	J	T	Exempt				
43. SPDR S&P 500 ETF Trust	A	Int./Div.	J	T	Exempt				
44. Sterling Capital Special Opportunities Fund	A	Int./Div.	J	T	Exempt				
45. T.Rowe Price New Income Fund	A	Int./Div.	J	T	Exempt				
46. UNIQUE College Investing Plan (NH) Portfolio 2018	C	Int./Div.	K	T	Exempt				
47. UNIQUE College Investing Plan (NH) Portfolio 2021	C	Int./Div.	K	T	Exempt				
48. Vanguard Institutional Index Fund	A	Int./Div.	J	T	Exempt				
49. Vanguard Short-Term Bond Index Fund	A	Int./Div.	J	T	Exempt				
50. Wellington Diversified Growth Fund	A	Int./Div.	J	T	Exempt				
51. Wells Fargo Advantage Emerging Market Equity Fund	A	Int./Div.	J	T	Exempt				

1. Income Gain Codes: A = \$1,000 or less (See Columns B1 and D4) F = \$50,001 - \$100,000 J = \$15,000 or less (See Columns C1 and D3) N = \$250,001 - \$500,000 P1 = \$25,000,001 - \$50,000,000 U = Book Value

B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000 K = \$15,001 - \$50,000 O = \$300,001 - \$1,000,000 R = Cost (Real Estate Only) V = Other

C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000 L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000 S = Assessment W = Estimated

D = \$5,001 - \$15,000 H2 = More than \$5,000,000 M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000 T = Club Market

E = \$15,001 - \$50,000

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Alonso, Jorge L.	<b>Date of Report</b> 08/05/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-66 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "X" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
52. Wells Fargo Advantage Growth Fund		None	J	T	Exempt					
53. Wells Fargo Stable Return Fund	A	Int./Div.	J	T	Exempt					
54. Vanguard REIT ETF	A	Int./Div.	J	T	Exempt					
55. Chase bank Cash Accounts	A	Interest	J	T	Exempt					
56. Notherwestern Mutual Whole Life	A	Int./Div.	J	T	Exempt					

1. Income Gain Codes: (See Column B1 and D4)  
 2. Value Codes (See Columns C1 and D3)  
 3. Value Method Codes (See Column C2)
- |                                  |                             |                                |                                 |                         |
|----------------------------------|-----------------------------|--------------------------------|---------------------------------|-------------------------|
| A = \$1,000 or less              | B = \$1,001 - \$2,500       | C = \$2,501 - \$5,000          | D = \$5,001 - \$15,000          | E = \$15,001 - \$50,000 |
| F = \$50,001 - \$100,000         | G = \$100,001 - \$1,000,000 | H1 = \$1,000,001 - \$5,000,000 | H2 = More than \$5,000,000      |                         |
| J = \$15,000 or less             | K = \$15,001 - \$50,000     | L = \$50,001 - \$100,000       | M = \$100,001 - \$250,000       |                         |
| N = \$250,001 - \$500,000        | O = \$500,001 - \$1,000,000 | P1 = \$1,000,001 - \$5,000,000 | P2 = \$5,000,001 - \$25,000,000 |                         |
| P3 = \$25,000,001 - \$50,000,000 | Q = Appraisal               | R = Cost (Real Estate Only)    | S = Assessed                    | T = Cash Market         |
| U = Book Value                   | V = Other                   | W = Estimated                  |                                 |                         |



**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
Alonso, Jorge L.	08/05/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

**FINANCIAL DISCLOSURE REPORT**

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Name of Person Reporting	Date of Report
Alonso, Jorge L.	08/05/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/ Jorge L. Alonso*

**NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)**

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

**FINANCIAL STATEMENT**  
**NET WORTH**

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

ASSETS			LIABILITIES		
Cash on hand and in banks		2 000	Notes payable to banks-secured (auto)		40 376
U.S. Government securities-Series EE bonds			Notes payable to banks-unsecured		
Listed securities - see schedule	293	699	Notes payable to relatives		
Unlisted securities			Notes payable to others		
Accounts and notes receivable:			Accounts and bills due	3	465
Due from relatives and friends			Unpaid income tax		
Due from others			Other unpaid income and interest		
Doubtful			Real estate mortgages payable - see schedule	421	850
Real estate owned - personal residence	530	000	Chattel mortgages and other liens payable		
Real estate mortgages receivable			Other debts-itemize:		
Autos and other personal property	60	000	Education loans	14	820
Cash value-life insurance		688			
Other assets itemize:					
The Judges' Retirement System of Illinois	189	328			
			Total liabilities	480	511
			Net Worth	595	204
Total Assets	1 075	715	Total liabilities and net worth	1 075	715
CONTINGENT LIABILITIES			GENERAL INFORMATION		
As endorser, comaker or guarantor			Are any assets pledged? (Add schedule)	No	
On leases or contracts			Are you defendant in any suits or legal actions?	No	
Legal Claims			Have you ever taken bankruptcy?	No	
Provision for Federal Income Tax					
Other special debt					

**FINANCIAL STATEMENT****NET WORTH SCHEDULES**Listed Securities

American Funds Bond Fund of America	\$ 1,675
American Funds EuroPacific Growth Fund	3,355
American Funds Growth Fund of America	8,057
American Funds Intermediate Bond Fund of America	1,527
American Funds New Economy Fund	2,625
American Funds New Perspective Fund	7,864
American Funds SMALLCAP World Fund	2,969
American Funds The Investment Company of America	4,848
American Funds Washington Mutual Investors Fund	8,138
ASTON/Fairpointe Mid Cap Fund	2,312
BlackRock High Yield Bond Fund	3,716
Bright Start Age Based 10-11 Years Portfolio 529	30,015
Bright Start Age Based 12-14 Years Portfolio 529	29,257
Causeway International Value Fund	5,723
Cohen & Steers Real Estate Securities Fund	3,059
Columbia Acorn Fund	495
Delaware Emerging Markets Fund	2,387
Federated Institutional High Yield Bond Fund	3,458
Fidelity Puritan Fund	382
Goldman Sachs Emerging Markets Debt Fund	1,487
Goldman Sachs Small Cap Value Fund	2,202
Harbor International Fund	5,650
Invesco International Growth Equity Trust	389
iShares MSCI EAFE ETF	7,883
iShares Russell 2000 ETF	1,469
iShares Russell Midcap Index ETF	641
JPMorgan Core Bond Select Fund	1,316
JPMorgan Emerging Markets Equity Fund	2,523
JPMorgan High Yield Fund	3,721
JPMorgan International Value Fund	5,644
JPMorgan Liquid Assets Money Market Fund	1,079
JPMorgan Mid Cap Equity Fund	2,261
JPMorgan Short Duration Bond Fund	2,597
JPMorgan Small Cap Equity Fund	2,506
JPMorgan US Equity Fund	12,952
JPMorgan Value Advantage Fund	4,946
MFS Emerging Market Debt Fund	1,060
MFS Massachusetts Investors Trust	12,704
Oakmark Fund	13,885
Oppenheimer Developing Markets Fund	3,094
PIMCO Short Term Fund	3,349

PIMCO Total Return Fund	2,979
SPDR S&P 500 ETF Trust	13,252
Sterling Capital Special Opportunities Fund	4,067
T. Rowe Price New Income Fund	1,324
UNIQUE College Investing Plan (NH) Portfolio 2018	23,166
UNIQUE College Investing Plan (NH) Portfolio 2021	16,951
Vanguard Institutional Index Fund	391
Vanguard REIT ETF	2,296
Vanguard Short-Term Bond Index Fund	1,949
Wellington Diversified Growth Fund	382
Wells Fargo Advantage Emerging Market Equity Fund	2,408
Wells Fargo Advantage Growth Fund	4,948
Wells Fargo Stable Return Fund	3,015
Total Listed Securities	<u>\$ 293,699</u>

<u>Real Estate Mortgages Payable</u>	
Personal residence – mortgage	\$ 381,868
Personal residence – home equity line of credit	<u>39,982</u>
Total Real Estate Mortgages Payable	<u>\$ 421,850</u>

AFFIDAVIT

I, Jorge L. Alonso, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

8.6.14  
(DATE)

[Signature]  
(NAME)

[Signature] 8/6/14  
(NOTARY)



UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

John Robert Blakey ("Jack Blakey")

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

United States District Court Judge for the Northern District of Illinois

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: Cook County State's Attorney's Office  
George N. Leighton Criminal Court Building, 13th Floor  
2650 South California Avenue  
Chicago, Illinois 60608

Residence: Oak Park, Illinois

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

1965; South Bend, Indiana

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.

1990 – 1992, Notre Dame Law School; J.D., 1992  
1988 – 1989, London Academy of Music and Dramatic Art; C.F.A., 1989  
1984 – 1988, University of Notre Dame; B.A. (with honors), 1988

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.

2009 – Present, 1996 – 2000  
Cook County State's Attorney's Office

George N. Leighton Criminal Court Building, 11th Floor  
2650 South California Avenue  
Chicago, Illinois 60608  
Chief, Special Prosecutions Bureau (2009 – Present)  
Assistant State’s Attorney (1996 – 2000)

2004 – Present  
United States Attorney’s Office for the Northern District of Illinois  
219 South Dearborn Street, Fifth Floor  
Chicago, Illinois 60604  
Special Assistant United States Attorney (2009 – Present)  
Assistant United States Attorney (2004 – 2009)

2000 – 2004  
United States Attorney’s Office for the Southern District of Florida  
99 N.E. Fourth Street  
Miami, Florida 33132  
Assistant United States Attorney

1995 – 1996  
Vedder Price Kaufman & Kammholz, P.C.  
222 North LaSalle Street, Suite 2600  
Chicago, Illinois 60601-1003  
Litigation Associate

September 1994 – August 1995  
Professor G. Robert Blakey  
The William J. and Dorothy K. O’Neill Chair in Law  
Notre Dame Law School  
Notre Dame, Indiana 46556  
Researcher

1992 – 1994  
Honorable William J. Zloch  
United States District Court Judge  
United States District Court for the Southern District of Florida  
299 East Broward Boulevard, Room 202B  
Fort Lauderdale, Florida 33301  
Judicial Law Clerk

Summer 1991  
Brown & Bain (currently Perkins Coie, LLP)  
2901 North Central Avenue, Suite 2000  
Phoenix, Arizona 85012  
Summer Associate



Summer 1990  
 Wehner & Perlman  
 12121 Wilshire Boulevard  
 Los Angeles, California 90025  
 Summer Associate

Other affiliations (Uncompensated)

March 2014 – Present  
 National Crime Insurance Bureau  
 1111 East Touhy Avenue, Suite 400  
 Des Plaines, Illinois 60018  
 National Advisory Board

2012 – Present  
 Cook County Regional Organized Crime Task Force  
 2650 South California Avenue, 13th Floor  
 Chicago, Illinois 60608  
 Chairman, National Advisory Board

2011 – Present  
 Laboratory to Combat Human Trafficking  
 Colorado Project to Combat Human Trafficking  
 Posner Center for International Development  
 1031 33rd Street, Suite 237  
 Denver, Colorado 80205  
 National Advisory Board

1995 – Present  
 Seanachai Theatre Company  
 1530 South States Street, #801  
 Chicago, Illinois 60605  
 Board Member

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 U.S. Military. I timely registered for selective service.

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.

Patriot Award, United States Department of Defense (June 2014)

Recipient, Cook County Crime Stoppers “Excellence in Law Enforcement Award” (2012)

Fellowship, Leadership Greater Chicago (Class 2011 – 2012)

Chicago Crime Commission “Star of Distinction” Award (2011)

Recipient, Director’s Award for Superior Performance, Executive Office for United States Attorneys, Washington D.C. (2010) (*United States v. Fernando Delatorre, et al.*, Case No. 03-CR-90)

Recipient, Director’s Award for Superior Performance, Executive Office for United States Attorneys, Washington, D.C. (2007) (*United States v. Miguel Battle, Sr., et al.*, Case No. 04-CR-20159)

Recipient, Law Enforcement Service Award (2006) (*United States v. Martin Valadez, et al.*, Case No. 04-CR-534)

Recipient, United States Attorney’s Merit Award for Exceptional Achievement (2004) (*United States v. Miguel Battle, Sr., et al.*, Case No. 04-CR-20159)

Recipient, Certificate for Outstanding Achievements in the High Intensity Drug Trafficking Area Program, Office of National Drug Policy, Executive Office of the President, Washington, D.C. (2004)

Awarded Thomas J. White Scholarship for Law and Government (1992)

Selected for the Catherine Hicks Award (Academic Award for Department Major) (1988)

Selected, Adjudicator Nomination, Irene Ryan National Acting Competition (1988)

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.

American Bar Association  
Chicago Bar Association  
Chicago Bar Association’s Judicial Evaluation Committee  
Former Assistant United States Attorneys for the Northern District of Illinois  
Illinois Prosecutor’s Bar Association

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.

Illinois, 1995  
New York, 1995  
Florida, 1993 (inactive)

There have been no lapses in membership, although as indicated, my membership in Florida is inactive.

- 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.

Illinois courts, 1995  
New York courts, 1995  
Florida courts, 1993  
United States District Court for the Northern District of Illinois, 1995

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.

Cook County Regional Organized Crime Task Force (2010 – present)  
Supervisor (2010 – present)  
Chairman, Advisory Board/Supervisor (2012 – present)

Laboratory to Combat Human Trafficking – Colorado Project to Combat Human Trafficking (2011 – present)  
National Advisory Board

National Association of Attorneys General (2012 – present)  
Consultant/National Instructor

National Crime Insurance Bureau (March 2014 – present)  
National Advisory Board

Notre Dame Alumni Club of Chicago (2012 – present)

Upper Midwest Community Policing Institute (2011 – present)  
Consultant/National Instructor

Seanachai Theatre Company (1995 – present)  
Board Member

Office for Victims of Crime, Training and Technical Assistance Center,  
Office of Justice Programs, United States Department of Justice (2013 –  
present)  
Consultant/National Instructor

- 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 the best of my knowledge, the organizations listed in response to Question 11(a) above do not, and did not formerly, discriminate on the basis of race, sex, religion, national origin, ethnicity, or sexual orientation, 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.

*Notre Dame Alumni Class of 1988, Catch Up*, Notre Dame Alumni Website (July 24, 2006). Copy supplied.

Co-Author, "*The Racketeer Influenced & Corrupt Organization Act (RICO): Background, Problem and Analysis*," University of Arizona College of Law, Federal Criminal Law Enforcement (June 1998). Copy supplied.

Co-Author, "*Civil and Criminal RICO: An Overview of the Statute and its Operation*," 64 Defense Counsel Journal (January 1997). Copy supplied.

Author, "*Could Prosecutors Convict John Gotti in the Fifth Circuit? A Criticism of Heller v. Gramco's Approach to the Relatedness Requirement*," Civil RICO Report (April 17, 1996). Copy supplied.

*Student Letter to Editor*, Notre Dame Observer (October 7, 1991). Copy supplied.

*Student Letter to Editor*, Notre Dame Observer (November 18, 1986). Copy supplied.

- 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.

From 2011 to 2013, in my capacity as a member of the Colorado Project's National Advisory Board, I provided background information related to human trafficking law enforcement for a set of multidisciplinary reports issued in October 2013, although I did not otherwise draft or edit these reports. Colorado Project to Combat Human Trafficking Report Release, Executive Summary, National Survey Report, and Statewide Data Report. Copies supplied.

- 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.

On several occasions listed below where I testified as an expert witness on behalf of specific legislation, I was sometimes asked to speak privately with legislators or their staff who had further questions prior to or after the hearing. I do not recall – nor did I keep a list – of the individual legislators or staff members I might have spoken with on these occasions.

On May 6, 2014, I provided an informal technical briefing in Washington, D.C., to staff members for co-sponsors of S. 1738 (Justice for Victims of Trafficking Act of 2013) and S. 2536 (Stop Advertising Victims of Exploitation Act of 2014). I have no notes from these meetings.

On September 23, 2013, I spoke as an expert witness before the Michigan Commission on Human Trafficking, regarding effective measures to fight human trafficking. I have no notes, transcript, or recording for this appearance, but I have supplied a copy of the resulting final report: *Michigan Commission on Human Trafficking – Report to the Governor and Legislature* (November 6, 2013).

On May 23, 2012, I testified as an expert witness in support of H.B. 1907 (Illinois Street Gang Racketeer Influenced and Corrupt Organizations (RICO) Act) before the State Senate Criminal Law Committee, 97th Illinois General Assembly. I

have no notes, transcript, or recording for this appearance. The Illinois Senate does not record or transcribe its committee hearings.

On April 13, 2012, I testified as an expert witness in support of H.B. 1907 (Illinois Street Gang RICO) before the Illinois Sentencing Policy Advisory Council. Minutes and audio recording supplied.

On March 9, 2011, I testified as an expert witness in support of H.B. 1907 (Illinois Street Gang RICO) before the State House Judiciary I Committee, 97th Illinois General Assembly. Audio recording supplied.

On May 22, 2010, I testified as an expert witness in support of the recommendations of the Illinois Reform Commission (S.B. 1013) before the State Senate Criminal Law Committee, 96th Illinois General Assembly. I have no notes, transcript, or recording for this appearance. The Illinois Senate does not record or transcribe its committee hearings.

On April 22, 2010, I testified as an expert witness in support of H.B. 6462 (Illinois Safe Children's Act) before the State Senate Criminal Law Committee, 96th Illinois General Assembly. I have no notes, transcript, or recording for this appearance. The Illinois Senate does not record or transcribe its committee hearings.

On March 22, 2010, I testified as an expert witness in support of H.B. 6462 (Illinois Safe Children's Act) before the State House Judiciary II Committee, 96th Illinois General Assembly. Audio recording supplied.

On April 9, 2009, I testified as an expert witness before the Illinois Reform Commission. Video recording available at:  
<http://www2.illinois.gov/gov/reformnow/Pages/Video.aspx>.

In addition, as part of my official duties with the Cook County State's Attorney's Office, I drafted the initial versions of several bills for the Legislative Unit within my office, which later provided draft legislation and commentary to state legislators: 97th Illinois General Assembly H.B. 1907 (Illinois Street Gang RICO) (2011 – 2012); 96th Illinois General Assembly H.B. 6462 (Illinois Safe Children's Act) (2010); 96th Illinois General Assembly H.B. 6460 (Theft and Fencing Reform) (2010 – 2011); and 91st Illinois General Assembly S.B. 1332 (Safe Zone Hearsay Exception) (1998).

- 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.

As a private civil attorney and a federal and state prosecutor, I have given numerous speeches and lectures, but I have not maintained a running list of those appearances over the years, nor have I normally kept any prepared remarks or outlines. In many instances, I taught using a Socratic method and thus I have no prepared remarks or notes. To the best of my ability, I have attempted to remember and cite my appearances below, but I know that the list is not a comprehensive accounting and it does not include numerous in-house trainings that I have conducted as a state and federal prosecutor. For the most part, virtually all of my remarks have concerned technical or legal matters related to the investigation and prosecution of civil and criminal cases. Whenever available, I also have listed the relevant information and supplied copies of any requisite materials that I could locate. The requested information is as follows:

June 16-18, 2014: Lecturer, "Advanced Human Trafficking Investigation Course (Oklahoma)," U.S. Attorney's Office, Northern District of Oklahoma, United States Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute, Tulsa, Oklahoma. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute is 1951 Woodlane Drive, Suite 200, Woodbury, Minnesota 55125.

May 19-21, 2014: Lecturer, "Advanced Human Trafficking Investigation Course (Texas)," Texas Department of Public Safety, Criminal Investigations and Texas Rangers, United States Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute, San Antonio, Texas. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute is 1951 Woodlane Drive, Suite 200, Woodbury, Minnesota 55125.

April 24, 2014: Presenter, "Human Trafficking Forum for Suburban Police Chiefs and Local Elected Officials," Hosted by U.S. Congressman Peter J. Roskam and Benedictine University, Lisle, Illinois. PowerPoint and press coverage supplied.

April 21-22, 2014: Lecturer, "Advanced Human Trafficking Investigation Course (Missouri)," United States Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute, Chesterfield, Missouri. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute is 1951 Woodlane Drive, Suite 200, Woodbury, Minnesota 55125.

April 13-14, 2014: Panelist, "Legislative and Prosecutorial Successes and Hurdles with Labor and Sex Trafficking – Human Trafficking Past, Present and Future (NAAG Midwestern Regional Meeting)," National Association of Attorneys General, Lawrence, Kansas. The presentation covered prosecutorial and legislative issues in the fight against human trafficking. I have no notes, transcript or recording. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

March 16-19, 2014: Lecturer, "Advanced Human Trafficking Investigation Course (South Carolina)," United States Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute, Charleston, South Carolina. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute is 1951 Woodlane Drive, Suite 200, Woodbury, Minnesota 55125.

March 3-4, 2014: Instructor, "Human Trafficking Training for State Prosecutors (Alabama)," Alabama Office of the Attorney General, United States Department of Justice, Bureau of Justice Assistance, National Association of Attorneys General/UMCPI, Montgomery, Alabama. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

December 5, 2013: Presenter, "Major Medical Insurance Fraud Investigation & Prosecutions -- National Insurance Crime Bureau, Annual Board of Governors Meeting," National Insurance Crime Bureau, Des Plaines, Illinois. PowerPoint supplied.

November 18-19, 2013: Instructor, "Human Trafficking Training for State Prosecutors (Massachusetts)," United States Department of Justice, Bureau of Justice Assistance, National Association of Attorneys General/UMCPI, Worcester, Massachusetts. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

October 6-9, 2013: Lecturer, "Advanced Human Trafficking Investigation Course (Texas)," Texas Department of Public Safety, Criminal Investigations and Texas Rangers, United States Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute, Austin, Texas. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute is 1951 Woodlane Drive, Suite 200, Woodbury, Minnesota 55125.



September 26, 2013: Lead Presenter, "Anti-Corruption Program for Czech Republic Delegation," Defense Institute of International Legal Studies, United States Department of Defense, Chicago, Illinois. PowerPoint supplied.

September 11, 2013: Presenter, "Cook County State's Attorney's Office's Unity in the Community Conference; Violence Reduction and You: Law Enforcement and Community Responses to Crime – RICO Statute," University of Illinois at Chicago/Cook County State's Attorney's Office, Chicago, Illinois. The presentation discussed the use of racketeering theory to help communities reduce violence in conjunction with other evidence-based community programs. I have no notes, transcript or recording. The address for the Cook County State's Attorney's Office is George N. Leighton Criminal Court Building, 11th Floor, 2650 South California Avenue, Chicago, Illinois 60608.

August 23, 2013: Speaker, "RICO-Based Human Trafficking Investigation and Prosecution – Cook County Human Trafficking Task Force Third Annual Conference," Cook County Human Trafficking Task Force, Chicago, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Cook County Human Trafficking Task Force is 2650 South California Avenue, Chicago, Illinois 60608.

August 22, 2013: Speaker, "Advanced Investigation Techniques – Cook County Human Trafficking Task Force Third Annual Conference," Cook County Human Trafficking Task Force, Chicago, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Cook County Human Trafficking Task Force is 2650 South California Avenue, Chicago, Illinois 60608.

July 29, 2013: Presenter, "Public-Private Partnerships – Advisory Board Meeting," Cook County Regional Organized Crime Task Force, Chicago, Illinois. The presentation discussed the use of effective public-private collaboration to fight organized financial crime. I have no notes, transcript or recording. The address for the Cook County Regional Organized Crime Task Force is George N. Leighton Criminal Court Building, 13th Floor, 2650 South California Avenue, Chicago, Illinois 60608.

June 23-26, 2013: Instructor, "Investigation and Prosecution of Organized Crime," National Association of Attorneys General, New York, New York. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

June 21, 2013: Lecturer, "Prosecuting RICO Cases in Illinois – Cook County State's Attorney's Office Special Seminar," Cook County State's Attorney's Office, Chicago, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Cook County

State's Attorney's Office is 2650 South California Avenue, Chicago, Illinois 60608.

May 12-15, 2013: Lecturer, "Advanced Human Trafficking Investigation Course (Texas)," Texas Department of Public Safety, Criminal Investigations and Texas Rangers, United States Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute, Austin, Texas. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute is 1951 Woodlane Drive, Suite 200, Woodbury, Minnesota 55125.

April 25-26, 2013: Expert Participant/Presenter, "United States & Netherlands High-Level Workshop on Fighting Human Trafficking," Embassy of the Kingdom of the Netherlands, in conjunction with the Dutch Public Prosecution Service, and the United States Department of State, Washington D.C. Audio recording of the public portion of the program available at: <http://migrationpolicy.podbean.com/2013/04/>

April 21-23, 2013: Instructor, "Human Trafficking Training for State Prosecutors (Arizona)," United States Department of Justice, Bureau of Justice Assistance, National Association of Attorneys General/UMCPI, Phoenix, Arizona. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

April 5, 2013: Judge, "23rd Annual National Criminal Justice Trial Advocacy Competition," American Bar Association's Criminal Justice Section, and the John Marshal Law School, Chicago, Illinois. The program was a national criminal trial advocacy competition for law students. I have no notes, transcript or recording. The address for the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654.

March 11-12, 2013: Instructor, "Human Trafficking Training for State Prosecutors (Georgia)," United States Department of Justice, Bureau of Justice Assistance, National Association of Attorneys General/UMCPI, Atlanta, Georgia. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

March 7-8, 2013: Panelist, "Colorado Project to Comprehensively Combat Human Trafficking -- National Conference," Laboratory to Combat Human Trafficking, Denver, Colorado. The panel and conference discussed the most effective multi-disciplinary approach to fighting human trafficking. I have no notes, transcript or recording. The address for the Laboratory to Combat Human

Trafficking is Posner Center for International Development, 1031 33rd Street, Suite 237, Denver, Colorado 80205.

February 25-27, 2013: Lecturer, "Advanced Human Trafficking Investigation Course (Colorado)," United States Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute, Denver, Colorado. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute is 1951 Woodlane Drive, Suite 200, Woodbury, Minnesota 55125.

February 3-5, 2013: Lecturer, "Advanced Human Trafficking Investigation Course (North Dakota)," United States Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute, Bismarck, North Dakota. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute is 1951 Woodlane Drive, Suite 200, Woodbury, Minnesota 55125.

January 28, 2013: Instructor, "Human Trafficking Training for State Prosecutors (Hawaii)," United States Department of Justice, Bureau of Justice Assistance, National Association of Attorneys General/UMCPI, Honolulu, Hawaii. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

January 24-25, 2013: Instructor, "Human Trafficking Training for State Prosecutors (Guam)," United States Department of Justice, Bureau of Justice Assistance, National Association of Attorneys General/UMCPI, Hagatna, Guam. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

December 14, 2012: Presenter, "RICO: Understanding and Using a Powerful Legal Tool to Combat Crime – 2012 Winter Conference," Illinois State's Attorney's Association, Chicago, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Illinois State's Attorney's Association is 404 Tecumseh Trail, P. Delfino, Springfield, Illinois 62711.

December 7, 2012: Presenter, "Illinois RICO – DuPage County State's Attorney's Law Enforcement Training Seminar," DuPage County State's Attorney's Office, Wheaton, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the DuPage County State's Attorney's Office is 421 North County Farm Road, Wheaton, Illinois 60187.

December 4-5, 2012: Lecturer, "Advanced Racketeering Seminar," Organized Crime & Gang Section, U.S. Department of Justice, and the Cook County State's Attorney's Office, Chicago, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the United States Department of Justice, Criminal Division, Organized Crime & Gang Section, is 1301 New York Avenue, N.W., Washington, DC 2005.

November 15-16, 2012: Instructor, "Human Trafficking Training for State Prosecutors (Louisiana)," United States Department of Justice, Bureau of Justice Assistance, National Association of Attorneys General/UMCPI, New Orleans, Louisiana. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

October 23, 2012: Presenter, "New Statutes & RICO Heroin Summit," Illinois Law Enforcement Training and Standards Board, and the Illinois Association of Chiefs of Police, Palos Hills. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Illinois Law Enforcement Training and Standards Board is 4500 South Sixth Street Road, Room 173, Springfield, Illinois 62703.

September 18-20, 2012: Lecturer, "Advanced Human Trafficking Investigation Course (Washington)," Seattle Police Department, United States Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute, Seattle, Washington. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Department of Justice, Bureau of Justice Assistance/Upper Midwest Community Policing Institute is 1951 Woodlane Drive, Suite 200, Woodbury, Minnesota 55125.

September 10-11, 2012: Lecturer, "Civil RICO Act Investigations and Prosecutions," Cook County Regional Organized Crime Task Force, 2012 Conference and Training, Chicago, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Cook County Regional Organized Crime Task Force is 2650 South California Avenue, 13th Floor, Chicago, Illinois 60608.

August 20-21, 2012: Instructor, "Human Trafficking Training for State Prosecutors (Colorado)," United States Department of Justice, Bureau of Justice Assistance, National Association of Attorneys General/UMCPI, Denver, Colorado. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

August 16-17, 2012: Lecturer, "Law Enforcement and Non-Governmental Organization Collaboration – Strengthening Collaboration: Increasing Effectiveness in the Fight Against Human Trafficking," Second Annual

Conference, Cook County Human Trafficking Task Force, Chicago, Illinois. The lecture covered the most effective multi-disciplinary approaches to fighting human trafficking, including the collaborative model employed by the Cook County Human Trafficking Task Force. I have no notes, transcript or recording. The address for the Cook County Human Trafficking Task Force is 2650 South California Avenue, Chicago, Illinois 60608.

August 4, 2012: Speaker, "Human Trafficking: The Chicago Approach" American Bar Association Commission on Domestic and Sexual Violence, Chicago, Illinois. The presentation discussed the effective use of the collaborative model of prosecution and investigation to fight human trafficking. I have no notes, transcript or recording. The address for the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654.

June 26, 2012: Presenter, "Judicial Reforms – U.S. Department of Justice Sponsored Site Visit for the Russian Delegation," Cook County State's Attorney's Office, Chicago, Illinois. The presentation discussed the use of effective public-private collaboration to fight neighborhood violence and prevent juvenile offenders from being involved in crime. I have no notes, transcript or recording. The address for the Cook County State's Attorney's Office is George N. Leighton Criminal Court Building, 11th Floor, 2650 South California Avenue, Chicago, Illinois 60608.

June 25, 2012: Lecturer, "Illinois Street Gang RICO," Cook County State's Attorney's Office, Chicago, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Cook County State's Attorney's Office is 2650 South California Avenue, Chicago, Illinois 60608.

June 6, 2012: Instructor, "Building Strong Human Trafficking Cases," Porter County District Attorney's Office and the Cook County Human Trafficking Task Force, Valparaiso, Indiana. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Cook County Human Trafficking Task Force is 2650 South California Avenue, Chicago, Illinois 60608.

April 17-18, 2012: Instructor, "Human Trafficking Training for State Prosecutors (Michigan)," United States Department of Justice, Bureau of Justice Assistance, National Attorneys General Association/UMCPI, Lansing, Michigan. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

April 4, 2012: Instructor, "Domestic Sex-Trafficking: The Chicago Approach – International Conference on Sexual Assault, Domestic Violence and Stalking,"

End Violence Against Women International, San Diego, California. PowerPoint supplied.

March 28-30, 2012: Speaker, "Prosecuting Traffickers: Best Practices – Presidential Initiative Summit," National Association of Attorneys General, Seattle, Washington. Video recording of the public portion of the program available at: <http://www.naag.org/presidential-summit-videos.php>.

March 2, 2012: Moderator, "Alternatives to Incarceration and Prevention of Re-Incarceration – Leadership Greater Chicago Crime and Violence Session," Chicago, Illinois. The panel and presentation discussed the effective use of alternative sentencing and community-based programs as alternatives to incarceration and as part of efforts to prevent recidivism, including reforms being developed in at-risk communities in the Chicago area. I have no notes, transcript or recording. The address for Leadership Greater Chicago is 111 East Wacker Drive, Suite 1220, Chicago, Illinois 60601.

February 22, 2012: Lecturer, "Human Trafficking 101," Chicago Police Academy Training and the Cook County Human Trafficking Task Force, Chicago, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Cook County Human Trafficking Task Force is 2650 South California Avenue, Chicago, Illinois 60608.

February 16-17, 2012: Instructor, "Human Trafficking Training for State Prosecutors (Mississippi)," United States Department of Justice, Bureau of Justice Assistance, National Attorneys General Association/UMCPI, Ocean Springs, Mississippi. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

October 24-25, 2011: Instructor, "Human Trafficking Training for State Prosecutors (Indiana)," United States Department of Justice, Bureau of Justice Assistance, National Attorneys General Association/UMCPI, Indianapolis, Indiana. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

October 19, 2011: Lead Presenter, "Anti-Corruption Program for Czech Republic Delegation," Defense Institute of International Legal Studies, United States Department of Defense, Chicago, Illinois. PowerPoint supplied.

October 4-5, 2011: Instructor, "Human Trafficking Training for State Prosecutors (New Jersey)," United States Department of Justice, Bureau of Justice Assistance, National Attorneys General Association/UMCPI, New Brunswick, New Jersey. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National Association of Attorneys General is

2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

June 29-30, 2011: Lecturer, "Building Strong Cases for Prosecution – Midwest Regional Human Trafficking Conference," Cook County Human Trafficking Task Force, Chicago, Illinois. PowerPoint supplied.

June 23, 2011: Presenter, "Taipei Chief District Prosecutor Jyh-Yeu Yang Delegation of the Ministry of Justice – Organized Crime Investigation and Prosecution," National Association of Attorneys General, Chicago, Illinois. The presentation discussed the general use of racketeering theory and proactive case planning in the United States judicial system to fight organized crime. I have no notes, transcript or recording. The address for the National Association of Attorneys General is 2030 M Street, NW, 8th Floor, Washington, D.C. 20036.

June 13, 2011: Board Member, "Welcoming Remarks for An Evening of Entertainment, Including Special Guest John Mahoney – Irish American Heritage Center," Seanachai Theatre Company, Chicago, Illinois. My remarks helped introduce an evening of Irish music and staged-readings of Irish literature during a fundraiser for a non-profit theater company. I have no notes, transcript or recording. The address for the Seanachai Theatre Company is 1530 South State Street, #801, Chicago, Illinois 60622.

May 18, 2011: Lecturer, "State and Federal Street Gang RICO Prosecutions," National District Attorneys Association Training, Chicago, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the National District Attorneys Association is 44 Canal Center Plaza, Suite 110, Alexandria, Virginia 22314.

April 1, 2011: Judge, "21st Annual National Criminal Justice Trial Advocacy Competition," American Bar Association's Criminal Justice Section, and the John Marshall Law School, Chicago, Illinois. The program was a national criminal trial advocacy competition for law students. I have no notes, transcript or recording. The address for the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654.

March 24, 2011: Subject Matter Expert, "Human Trafficking Focus Group Meeting," Upper Midwest Community Policing Institute, Tampa, Florida. Copy of outcome document supplied.

December 10, 2010: Presenter, "Advanced Investigation Techniques – Japanese Delegation, Sakai Branch Office of Osaka District Public Prosecutor's Office," Cook County State's Attorney's Office, Chicago, Illinois. The program discussed the effective use of racketeering theory, financial records and electronic surveillance in the fight against organized crime in the United States judicial system. I have no notes, transcript or recording. The address for the Cook

County State's Attorney's Office is 2650 South California Avenue, Chicago, Illinois 60608.

June 22, 2010: Lecturer, "Chicago Police Department – Human Trafficking Training," Chicago Police Department, Chicago, Illinois. Because the materials used at this training are law enforcement sensitive, they are not supplied. The address for the Chicago Police Department is 3510 South Michigan Avenue, Chicago, Illinois 60653.

May 5-7, 2010: Guest Lecturer, "Prosecuting and Investigating Public Corruption in Illinois," Department of Political Science, Northwestern University, Chicago, Illinois. The program discussed the effective use of the criminal justice system to fight public corruption on the federal, state, and local levels. I have no notes, transcript or recording. The address for Northwestern University is 633 Clark Street, Evanston, Illinois 60208.

February 14, 2010: Speaker/Panelist, "International Investigation Techniques – Chicago Bar Association, International CLE in Cancun, Mexico," Chicago Bar Association, Chicago, Illinois. PowerPoint supplied.

February 13, 2010: Speaker/Panelist, "Human Trafficking – Chicago Bar Association, International CLE in Cancun, Mexico," Chicago Bar Association, Chicago, Illinois. The presentation discussed the effective use of the collaborative model of prosecution and investigation to fight human trafficking. I have no notes, transcript or recording. The address for the Chicago Bar Association is 321 South Plymouth Court, Chicago, Illinois 60604.

February 13, 2010: Speaker/Panelist, "Criminal Law Substantive Topic – Legislative Update – Chicago Bar Association, International CLE in Cancun, Mexico," Chicago Bar Association, Chicago, Illinois. The presentation discussed the new developments in Illinois criminal law. I have no notes, transcript or recording. The address for the Chicago Bar Association is 321 South Plymouth Court, Chicago, Illinois 60604.

On April 16, 2009: Speaker, "Illinois RICO and Public Corruption Reforms," Chicago Bar Association Board Meeting Chicago, Illinois. The presentation was on potential statutory reforms in Illinois to fight street gangs and public corruption, including the work of the Illinois Reform Commission. I have no notes, transcript, or recording. The address for the Chicago Bar Association is 321 South Plymouth Court, Chicago, Illinois 60604.

April 14, 2009: Lecturer, "Illinois RICO and Public Corruption Reforms," Chicago Bar Association Criminal Law Committee, Chicago Illinois. The presentation was on potential statutory reforms in Illinois to fight street gangs and public corruption, including the work of the Illinois Reform Commission. I have no notes, transcript or recording, but press coverage is supplied. The address for



the Chicago Bar Association is 321 South Plymouth Court, Chicago, Illinois 60604.

- 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.

Over the years, I have not kept track of media interviews or participation in press conferences or media events, but I have nevertheless made a good faith effort to remember, locate, and provide copies of such materials. There may, however, be interviews that I have been unable to locate or recall.

Interviews and Related News Articles/Media Coverage:

May 8, 2014, Expert Panelist for Public Television Program, "Chicago Tonight: Chicago's Human Trafficking," (WTTW). Video recording available at: <http://chicagotonight.wttw.com/2014/05/08/chicagos-human-trafficking>.

March 16, 2014, Annie Sweeney, "Despite Support, Sex Trade Ad Bill Faces Uphill Battle," (Chicago Tribune). Copy supplied.

March 11, 2014, Annie Sweeney, "Legislation to Target Sex Trade Ads on Web," (Chicago Tribune). Copy supplied.

March 6, 2014, Clyde Hughes, "\$7 Million Shoplifting Scheme: Father, Mother, Daughter, Arrested," (Newsmax). Copy supplied.

February 26, 2014, Jason McGahan, "How Captured Mexican Drug Lord 'El Chapo' Turned Chicago Into His Home Port" (Time Magazine). Copy supplied.

November 6, 2013, Stacy St. Clair and Steve Mills, "No Charges Against Cop Who Shot Unarmed Man," (Chicago Tribune). Copy supplied.

August 9, 2013, Amy Canfield, "ORC Task Force Using Motorola Real-Time Crime Center System," (Security Director News). Copy supplied.

February 14, 2013, Gregory Pratt, "House of Secrets and Lies," (Chicago Tribune). Copy supplied.

December 12, 2012, Chuck Goudie, "I-Team New Kings of Crimes," (ABC News). Video recording available at: <http://abclocal.go.com/wls/story?section=news/iteam&id=8668876> (quotation reprinted in multiple outlets).

November 22, 2012, Marcia Froelke Coburn, "Shoplifting in Chicago," (Time Out Chicago Magazine). Copy supplied.

July 16, 2012, Erin Meyer, "Law Attacks Dog Fighting Rings," (Chicago Tribune). Copy supplied.

June 7, 2012, Jason Meisner, "Officials Back Bill Aimed at Gangs," (Chicago Tribune). Copy supplied (quotation reprinted in multiple outlets).

April 24, 2012, Jason Meisner, "Investigator Has Many Targets," (Chicago Tribune). Copy supplied.

March 13, 2012, Sara Burnett, "Theatre Background Gives Top Prosecutor an Edge," (University of Notre Dame Alumni News). Copy supplied (quotation reprinted in multiple outlets).

December 22, 2011, Cynthia Dizikes, "Judge Removes Self from Beating Case Involving Daley Kin," (Chicago Tribune). Copy supplied.

October 17, 2011, Rhonda Young, "National Advisory Board Profiles: Jack Blakey," (Colorado Project to Combat Human Trafficking). Copy supplied.

August 13, 2011, Meribah Knight, "Campaign Against Sex Trafficking Is Gaining," (New York Times). Copy supplied.

May 2011, "Inspectors General and Government Corruption: A Guide to Best Practices and an Assessment of Five Illinois Offices," Business and Professional People for the Public Interest (May 2011). Copy supplied.

April 13, 2011, Maureen Maher, "Michael Gargiulo: The Serial Killer Next Door?" (also listed as "The Boy Next Door") (CBS 48 Hours Mystery). I have supplied a copy of the program transcript for the "Details of the Tricia Pacaccio Case" (re-broadcast with new footage on August 18, 2012), and the official video recordings are available at:  
<http://www.cbsnews.com/news/michael-gargiulo-the-serial-killer-next-door/>.

November 15, 2010, Dana Kozlov, "Did Park Ridge Police Cover up Teen Beatings By Lieutenant?" (CBS News Chicago). Copy supplied.

August 26, 2010, Maria Kantzavelos, "Grant Will Be Used on Human Trafficking Initiative," (Chicago Law Bulletin). Copy supplied.

August 20, 2010, Bethany Krajelis, "Quinn Signs Law to Help Fix Human Trafficking Problem," (Chicago Law Bulletin). Copy supplied.

July 15, 2010, Matthew Walberg, "Deputy Threw Arrestee Onto Cell Floor," (Chicago Tribune). Copy supplied.

June 30, 2010, Postal Inspector Tom Brady, "Mortgage Fraud" ("Don't Fall for It Radio Show"). Audio recording available at:  
<https://postalinspectors.uspis.gov/radDocs/PressRoom/DFFL.html>.

May 26, 2010, Tey-Marie Astudillo, "Cook County Cracks Down on Mortgage Fraud," (Medill Reports). Copy supplied.

May 26, 2010, Natalie Moore, "Chicago Police Shift Prostitution Approach," (WBEZ 91.5). Audio recording available at:  
<http://www.wbez.org/story/news/local/chicago-police-shift-prostitution-approach>.

April 9, 2010, Leah Hope, "Police Bust Alleged Chinatown Brothel," (ABC News). Copy supplied.

March 25, 2010, Kevin Robinson, "Wheeling Pet Food Company Owners Charged With Utility Theft," (Chicagoist). Copy supplied.

January 15, 2010, Ted Cox, "Suburban Cook Education Chief Arrested on Corruption Charges," (Chicago Daily Herald). Copy supplied.

September 25, 2009, Paul Meincke, "Cops Plead Guilty, Sentenced in Corruption Case," (ABC News). Video recording available at:  
<http://abclocal.go.com//story?section=news/local&id=7033273>.

September 19, 2009, Matthew Walberg, "First Guilty Pleas in Special Unit Scandal; Four Cops Cooperating in Probe Sentenced for Roles in Case," (Chicago Tribune). Copy supplied.

September 19, 2009, Associated Press Writer, "Four Chicago Policemen Admit Robbing Suspects," (New York Times). Copy supplied.

August 7, 2009, Lauren Fitzpatrick, "When Did Alleged Crimes at Burr Oak Really Begin?" (South Town Star). Copy supplied.

May 27, 2009, Editorial Board, "Before Reform Bites the Dust, Give 'Em Hell," (Chicago Sun-Times). Copy supplied.

April 10, 2009, Rob Olmstead, "State's Attorneys Want Wire Power," (Chicago Daily Herald). Copy supplied.

April 8, 2009, Chicago Tribune Editorial Board, "Busting Crooked Pols," (Chicago Tribune). Copy supplied.

April 7, 2009, Chicago Tribune Blog “Vox Pop: In the Room, Cook County State’s Attorney Anita Alvarez,” (Chicago Tribune). Copy supplied.

April 7, 2009, Patrick Yeagle, “Alvarez Seeks State RICO Law,” (Chicago Law Bulletin). Copy supplied.

April 7, 2009, Robert Mitchum, “Alvarez: Illinois Needs a Racketeering Law,” (Chicago Tribune). Copy supplied.

February 20, 2009, Staff Writer, “Sick with Corruption,” (Chicago Sun-Times). Copy supplied.

February 20, 2009, Jerry Crimmins, “Alvarez Takes Aim at Corruption with New Hire,” (Chicago Law Bulletin). Copy supplied.

March 17, 2007, Matt O’Connor, “Jury Finds Man Guilty in Murder Plot,” (Chicago Tribune). Copy supplied.

January 7, 2007, Jeff Coen, “Three Extradited from Colombia,” (Chicago Tribune). Copy supplied.

October 27, 2005, Tona Kunz, “St. Charles Man Gets 10 Years for Role in Midwest Drug Ring,” (Chicago Daily Herald). Copy supplied.

September 17, 2005, Tona Kunz, “Three Members of Drug Ring Sentenced, Kane County Men Pleaded Guilty for Roles in Massive Cocaine, Marijuana Network,” (Chicago Daily Herald). Copy supplied.

February 23, 2005, Matt O’Connor, “Ingleside Man Convicted in Cocaine Case,” (Chicago Tribune). Copy supplied.

July 29, 2002, Brian Bandell, “Feds in Miami Charge Seven with Illegally Selling Firearms,” (Associated Press). Copy supplied.

Press Conferences and Related Media Coverage:

During my work as a state and federal prosecutor, I have participated in, and assisted in the preparation for, numerous press conferences. Among those press conferences, I have personally answered media questions on certain occasions, and I have listed those particular conferences below to the best of my recollection. Whenever possible, I have provided the available video recordings or media coverage containing my comments.

June 30, 2014: Press conference held to announce the final guilty pleas of numerous street gang members charged with sex-trafficking children and young women as part of “Operation Little Girl Lost.” Video recording supplied.

June 13, 2013: Press conference held with law enforcement officials from the Federal Bureau of Investigation and the Chicago Police Department to announce the filing of racketeering and related charges against violent street gang members as part of "Operation 40-Cal." I have no notes, transcript, or recording.

August 22, 2012: Press conference held with education and law enforcement officials to announce public corruption charges as part of "Operation Cookie Jar." I have no notes, transcript, or recording.

June 11, 2012: Press conference held with Illinois Governor Pat Quinn, Chicago Mayor Rahm Emanuel, Cook County State's Attorney Anita Alvarez and other officials to announce the signing of the new Illinois Street Gang RICO Law. I have no notes, transcript, or recording.

May 20, 2012: Press conference held to announce criminal bomb threat charges and bond conditions for two defendants during the NATO summit. Representative press coverage supplied and audio clip available at: <http://www.wbez.org/news/steep-bond-nato-protesters-held-bomb-charges-99354>.

April 11, 2011: Press conference held with law enforcement officials to announce murder charges against serial killer Sonny Pierce. I have no notes, transcript, or recording.

March 11, 2011: Press conference held with law enforcement officials to announce public corruption charges against the North Suburban Waste Collection Agency Director. Representative video recording of media coverage supplied.

November 21, 2010: Press conference held with law enforcement officials to announce organized theft and fencing charges arising from the new Cook County Regional Organized Crime Task Force. Audio recording available at: <http://cbschicago.files.wordpress.com/2010/11/fencing-w1-sun.mp3> and video recording available at: <http://abclocal.go.com//story?section=news/local&id=7801935>.

October 5, 2010: Press conference held with law enforcement officials to announce public corruption charges against the Deputy Chief of Staff for the President of the Cook County Board. I have no notes, transcript, or recording.

September 15, 2010: Press conference held with law enforcement officials to announce public corruption charges in conjunction with various inspector generals as part of "Operation Cookie Jar." I have no notes, transcript, or recording.

May 26, 2010: Press conference held with law enforcement officials to announce criminal charges against four defendants arising from the new Mortgage Fraud Unit of the Special Prosecutions Bureau. Video recording of excerpts supplied.

May 4, 2010: Press conference held with law enforcement officials to announce public corruption charges as part of "Operation Cookie Jar." I have no notes, transcript, or recording.

April 9, 2010: Press conference held with law enforcement officials to announce criminal charges in the "Chinatown Brothel" Investigation. Representative video recording of media coverage supplied.

January 15, 2010: Press conference held with law enforcement officials to announce public corruption charges against the Superintendent of the Cook County Regional Office of Education. Representative video recording of media coverage supplied.

November 20, 2009: Press conference held with law enforcement officials to announce public corruption charges against the President of the Chicago Police Sergeants' Union. I have no public notes, transcript or recording.

September 10, 2009: Press conference held with law enforcement officials to announce criminal charges against the Corporate Chief Executive Officer in the "Republic Windows and Doors" Investigation. I have no notes, transcript, or recording.

August 6, 2009: Press conference held with law enforcement officials to announce criminal charges against four defendants in the "Burr Oak Cemetery Scandal" Investigation. Representative video recording of media coverage supplied.

February 20, 2009: Press conference held to announce my appointment as Chief of the Special Prosecutions Bureau of the Cook County State's Attorney's Office. Representative video recording of media coverage supplied.

March 18, 2004: Press conference held with law enforcement officials to announce racketeering charges against the Cuban Mafia as part of "Operation Corporate Raider." I have no notes, transcript, or recording.

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.

I have not held judicial office.

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.

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:

I have never been a judge.

- 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.

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.

I have not held elected or appointed public office. I have not been an unsuccessful candidate for elective office, nor have I had an unsuccessful nomination for appointed office.

- 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 membership or office in any political party or election committee. I have never held a position or played a role in a 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;

From 1992 to 1994, I served as a Judicial Law Clerk for the Honorable William J. Zloch, United States District Court for the Southern District of Florida.

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

I have never practiced 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.

1995 – 1996  
Vedder Price Kaufman & Kammholz, P.C.  
222 North LaSalle Street, Suite 2600  
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Litigation Associate

1996 – 2000, 2009 – present  
Cook County State's Attorney's Office  
George N. Leighton Criminal Court Building, 11th Floor  
2650 South California Avenue  
Chicago, Illinois 60608  
Assistant State's Attorney (1996 – 2000)  
Chief, Special Prosecutions Bureau (2009 – present)

2000 – 2004  
United States Attorney's Office for the Southern District of Florida  
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Assistant United States Attorney

2004 – present  
United States Attorney's Office for the Northern District of Illinois  
219 South Dearborn Street, Fifth Floor  
Chicago, Illinois 60604  
Assistant United States Attorney (2004 – 2009)  
Special Assistant United States Attorney (2009 – present)

- 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 in alternative dispute resolution proceedings.

b. Describe:

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

After I finished clerking, I worked in private practice as a litigation associate at Vedder Price, a large multi-national law firm in Chicago. I worked on national and international cases involving insurance coverage, insurance fraud and civil racketeering on both the defense and plaintiff side. As part of that work, my practice included handling civil motion practice, discovery, depositions, court hearings, and some criminal defense issues, and I also helped develop business and trained international insurance industry clients on how to recognize and remedy insurance fraud.

In 1996, I joined the Cook County State's Attorney's Office. Working my way up from the bottom of the nation's second-largest prosecutorial office, I handled a wide variety of criminal cases in the Appeals Division, Narcotics Preliminary Hearings/Grand Jury Unit, Night Narcotics Unit, Felony Trial/Special Prosecutions Unit, and the Felony Review Unit. During these years, I appeared in both state and federal court, and my practice included motion practice, witness and defendant interviews, evidentiary and document review, grand jury investigations, high-volume court calls, motion practice and evidentiary hearings, and more complex bench and jury trial work, as well as appellate court briefing and oral argument.

In 2000, I began my service as a federal prosecutor in Miami, Florida, first working reactive cases, including guns, drugs, counterfeiting, violence/bank robberies, and then graduating up over the years to complex grand jury and financial investigations, international litigation, and multi-defendant jury trials, including cases against several international organized crime syndicates, and service in the Narcotics-HIDTA Section (High Intensity Drug Trafficking Area) of the United States Attorney's Office in Miami, Florida.

In 2004, I transferred to the Chicago United States Attorney's Office, where I worked in the Narcotics and Gangs Section, and prosecuted complex street gang/RICO, financial crimes and drug-related matters. My case load also entailed a variety of significant police civil rights violations and public corruption matters.

In 2009, Cook County State's Attorney Anita Alvarez appointed me as the Chief of the Special Prosecutions Bureau where I still serve both as an Assistant State's Attorney, and as a Special Assistant United States Attorney for the Northern District of Illinois. As Bureau Chief, I also serve as a National Security Coordinator for the office, and I direct over 80 prosecutors, and numerous other sworn investigators, support staff, and victim-witness personnel. I supervise complex criminal and civil matters in the following units: Arson, Auto-Theft, Gang Crimes, Cold Case Murder, Organized Crime, Human Trafficking, Professional Standards (covering cases of police corruption, civil rights violations and excessive force for over 140 law enforcement agencies operating within Cook County), Financial Crimes, Public Corruption, Mortgage Fraud/Community Justice, Money Laundering, Intellectual Property Crime, Consumer Fraud, Insurance Fraud, and a special victims' unit known as Seniors and Persons with Disabilities. I also supervise the Regional Organized Crime Task Force and the Racketeering Strategy Center, as well as serving as a co-leader of the Cook County Human Trafficking Task Force. Additionally, as a Special Assistant United States Attorney, I conduct and supervise all of the joint state-federal investigations and prosecutions in Cook County, and continue to work on behalf of the United States on selected criminal matters.

As Bureau Chief, I also have instituted a series of targeted and proactive reforms within the Special Prosecutions Bureau, including those related to organized crime, cold case murder, financial crimes, public and police corruption, gang-related violence, mortgage fraud, community justice, and consumer fraud. These new initiatives also include the creation of the Cook County Regional Organized Crime (CCROC) Task Force, which is an innovative crime-fighting partnership between hundreds of different law enforcement agencies and more than 750 private-sector retail partners throughout the Midwest and across the nation.

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

In private practice, my clients were typically large corporations or multi-national insurance companies. As a prosecutor in Cook County, my client has been the people of Cook County and the various agencies of Cook County government. As an Assistant United States Attorney, my client has been the United States and its agencies.

- 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.

After my judicial clerkship, I was a researcher for Prof. G. Robert Blakey from 1994 to 1995 and worked on legislation and other legal issues, but I did not engage in any litigation.

As a private attorney from 1995 to 1996, I worked pretrial and appellate litigation in state and federal courts of record on a frequent basis (about 50% federal court and 50% various state courts). During this time, my practice involved 99% civil proceedings.

As an Assistant State's Attorney from 1996 to 2000, 99% of my work involved criminal litigation in state courts of record, and 1% in federal courts of record conducting civil proceedings (related to criminal matters). As a state prosecutor, I appeared in court on a daily basis.

As an Assistant United States Attorney in both Miami and Chicago from 2000 to 2009, my work always involved litigation with about 99% being in federal courts of record conducting criminal proceedings, and 1% being in federal courts of record conducting civil proceedings. As a federal prosecutor, I appeared in court on a daily basis.

In my current position as a state and federal prosecutor (2009 to present), nearly all of my work involves litigation in either civil or criminal court with the only real exception being my legislative drafting initiatives and my national teaching assignments. By my estimation, the cases I handle or supervise entail the following breakdown: (1) 80% involves state courts of record conducting criminal proceedings; (2) 10% involves state courts of record conducting civil proceedings; (3) 8% involves federal courts of record conducting criminal proceedings; and (4) 2% involves federal courts of record conducting civil proceedings. As a Bureau Chief, I appear in court on a weekly or monthly basis.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 51% |
| 2. state courts of record:  | 49% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 0%  |

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 10% |
| 2. criminal proceedings: | 90% |

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.

As a state/federal prosecutor for more than 17 years, I have tried over 90 cases to

final verdict. In state court, the vast majority of cases result in bench trials, so I have never kept a running total, but that very conservative figure represents a fair estimate. Of that total, I also have tried as lead counsel or co-lead counsel at least 27 jury trials, with all but three of these cases being tried in federal court. The length of the trials also varied from several days to a few months. I also have briefed and argued numerous appellate cases in the Illinois appellate courts and before the United States Courts of Appeal for both the Seventh and Eleventh Circuits.

- i. What percentage of these trials were:
  - 1. jury: 30%
  - 2. non-jury: 70%

- 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 of the United States.

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.

In reverse chronological order, the ten most significant litigated matters are as follows:

- 1. *People v. Church, et al.*, Case No. 12-CR-10985 (2012 – 2014) (Circuit Court of Cook County) (Judge Thaddeus Wilson).

This case involved a domestic terrorist investigation and prosecution against multiple “Black Bloc” anarchists who plotted to engage in violent attacks during the NATO Summit in Chicago in 2012, including the construction of improvised explosive devices and the firebombing of police officers and Chicago Police Department installations, and related attacks upon the Campaign Headquarters of U.S. President

Barack Obama, the personal residence of Chicago Mayor Rahm Emanuel, and certain downtown and neighborhood financial institutions. As part of a covert undercover investigation, law enforcement intervened before the defendants could engage in any attacks, and the defendants were arrested shortly after they constructed a set of Molotov cocktails. During the search of the defendants' residence, officers recovered the firebombs, various hand-held weapons, and handwritten notes for the construction of pipe bombs. On February 7, 2014, after a complex five-week jury trial, all three defendants were convicted of Super Class One felonies for possessing firebombs with the intent to commit arson, as well as multiple minor counts of mob action as lesser included offenses to the terrorism-related charges. At sentencing, the Circuit Court Judge imposed sentences upon the defendants of five, six and eight years in the Illinois Department of Corrections. From 2012 to 2014, I represented the People of Cook County as lead counsel, including the investigation and trial court proceedings.

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2. *United States v. Delatorre, et al.*, Case No. 03-CR-90 (2004 – 2009) (United States District Court for the Northern District of Illinois) (Judges Harry D. Leinenweber and Ruben Castillo).

This case, known as Operation “Double Down,” dismantled the leadership and key players in the “Insane Deuces Street Gang” operating in Aurora, Illinois. The case involved protracted pre-trial litigation and resulted in three separate, multi-month trials. The government obtained 12 search warrants and 21 gun recoveries and ultimately proved a 12-year racketeering conspiracy involving four murders, 18 attempted murders, two conspiracies to commit murder, a drug conspiracy, eight separate drug transactions through hours of recorded meetings and information from over 130 witnesses. Eight of the defendants received life sentences, one was sentenced to 40 years imprisonment, four were sentenced to 20 years imprisonment and the cooperating defendant received 16.25 years imprisonment. From 2004 to 2009, I represented the United States as co-lead counsel during the operation, and served as first chair for one set of the severed RICO jury trials. The team received a Director’s Award for its efforts.

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Jack Rimland & Associates  
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3. *United States v. Knox*, Case No. 06-CR-917 (United States District Court for the Northern District of Illinois) (Judge Suzanne B. Conlon).

This case involved the jury trial of a West African terrorist leader from the Revolutionary United Front, who was convicted of immigration fraud for concealing his true identity and lying about his prior terrorist activities in order to enter the United States, and thus flee the prosecution of the international criminal tribunal. As a result of the defendant's conviction, he was sentenced to one year in federal prison and 36 months' supervised release, and thus became subject to removal from the United States to face further justice in his home country. In 2007, I represented the United States as co-lead counsel for the supplemental investigation and jury trial.

Co-Counsel:

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Opposing Counsel:

John Meyer  
Meyer & O'Connor, L.L.C.  
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Chicago, Illinois 60603  
(312) 346-9000

4. *United States v. Gibson*, 06-CR-0070 (United States District Court for the Northern District of Illinois) (Judge Charles R. Norgle, Sr.).

This case involved the investigation, jury trial and conviction of a violent gang member for weapons charges and a murder-for-hire plot that he directed against a rival gang narcotics trafficker. Upon conviction, the defendant received a sentence of 235 months in federal prison. From 2006 to 2007, I represented the United States as co-lead counsel for the operation and jury trial.

Co-Counsel:

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Opposing Counsel:

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Meyer & O'Connor, L.L.C.  
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5. *United States v. Dismukes, et al.*, Case No. 04-CR-1090 (United States District Court for the Northern District of Illinois) (Judge Mark Filip).

This case involved the wiretap investigation and indictment of 11 defendants as part of an investigation by the Federal Bureau of Investigation into a violent multi-gang drug operation in the Southside of Chicago (known as Operation "All-Gang"). All of the defendants were ultimately convicted, including one of the lead defendants (Robinson) who was convicted after a complex jury trial. At sentencing, he received a sentence of 240 months in federal prison. From 2005 to 2006, I represented the United States as co-lead counsel for the operation.

Co-Counsel:

John Lausch  
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Kirkland & Ellis  
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Opposing Counsel:

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6. *United States v. Valadez, et al.*, Case No. 04-CR-534 (United States District Court for the Northern District of Illinois) (Judge John W. Darrah).

This case involved the conviction of multiple defendants in separate federal jury trials for a gang-related drug enterprise operating on the Northside of Chicago. In the lead case, we convicted a Latin King "Inca" (kingpin) on narcotics and money laundering

charges. At sentencing, we also established that he had committed a murder during his criminal course of conduct, and he received a sentence of natural life in prison. From 2004 to 2005, I represented the United States as co-lead counsel.

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Opposing Counsel:

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7. *United States v. Battle, Sr., et al.*, Case No. 04-CR-20159 (United States District Court for the Southern District of Florida) (Judge Alan Gold).

This RICO case, known as Operation “Corporate Raider,” targeted and prosecuted the international criminal enterprise known as the “Corporation” aka the “Cuban Mafia,” which was one of the nation’s largest organized crime syndicates. The Cuban Mafia controlled an illegal gambling empire that operated in multiple jurisdictions in the United States, using sophisticated money laundering schemes in various domestic and foreign locations, including Peru, Spain, Panama, Switzerland, the Cayman Islands, and Curacao. After a sixth-month trial, the jury found the defendants guilty of, among other things, eight murders and seven arsons resulting in deaths, one of which was the death of a three-year old girl and her babysitter, who were killed in a fire set at a competing gambling spot. Additionally, the jury returned a forfeiture verdict of \$1.4 billion, and the United States seized in excess of \$30 million in currency and other assets. From 2001 to 2004, I represented the United States as co-lead counsel during the operation, including the grand jury investigation, international takedown, and the protracted litigation in the trial court (up until my transfer to the Chicago U.S. Attorney’s Office). The team received a Director’s Award for its efforts.

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8. *United States v. Bell*, Case No. 01-CR-0423 (United States District Court for the Southern District of Florida) (Judge Paul C. Huck).

This case involved the jury trial, conviction, and forfeiture judgment against a major South Florida narcotics-trafficker for distributing crack cocaine during a federal investigation. Less than 12 hours before one of the lead witnesses testified, a masked gunman attempted to kill the witness' brother when he arrived home, and a threatening call was made stating that if the witness testified against the defendant, then his family would be killed. Thereafter, additional security measures were taken and no one was harmed. At sentencing, the defendant received a judgment of natural life in prison. In 2001, I represented the United States as co-lead counsel for trial.

Co-Counsel:

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9. *United States v. Kirillov*, Case No. 99-12202 (United States Court of Appeals for the Eleventh Circuit) (Judges Gerald Bard Tjoflat, Charles Wilson, and by designation Jane A. Restani).

This case involved the successful appellate prosecution of RICO and international narcotics charges against the lead defendant Kirillov, who was the leader of the Nizhniy Novgorodskaya crime syndicate (also known as the "Russian Mob"). In June 1998, as a result of a long-term wiretap investigation, the defendant and several coconspirators were charged with a racketeering conspiracy involving narcotics and extortion offenses, as well as the international shipment of stolen property and various money laundering investments in South Florida real estate. On appeal, the defendant challenged a variety of issues, including the drafting of the RICO indictment and jury instructions, and the evidentiary rulings of the district court. The appellate court ultimately rejected all of his claims in an unpublished opinion. In 2000, I represented the United States as lead counsel solely for the appeal before the United States Court of Appeals for the Eleventh Circuit.

Co-Counsel:

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 (305) 374-9091

10. *People v. Aleman*, 138 F.3d 302 (7th Cir. 1998) (United States Court of Appeals for the Seventh Circuit) (Judges Harlington Wood, Jr., John L. Coffey and Joel M. Flaum); *Aleman v. Circuit Court of Cook County*, 967 F. Supp. 1022 (N.D. Ill. 1997) (U.S. District Court, Northern District of Illinois) (Judge Suzanne B. Conlon); *People v. Aleman*, Case No. 93CR-28786 (Circuit Court of Cook County) (Judge Michael Toomin); *People v. Aleman*, 313 Ill.App.3d 51 (2000) (First District Appellate Court of Illinois) (Justices Allen Hartman, Mary Jane Theis, and Alan Greiman).

This case involved the pretrial federal habeas proceedings and state murder trial and appeal of a Chicago “Outfit” Mafia hit man who was ultimately retried and convicted of a 1972 murder even though he had been previously acquitted for the same murder by bribing the prior trial court judge. From 1996 to 2000, I represented the People of Cook County as lead co-counsel for the interlocutory habeas corpus proceedings in the federal trial court litigating the defendant’s constitutional double jeopardy, speedy trial and due process claims, and then for the appeal before the United States Court of Appeals for the Seventh Circuit. After the denial of his petition for a writ of habeas corpus was affirmed by the Seventh Circuit, I later represented the People of Cook County in motion practice before the state trial court during the subsequent murder retrial, and then served as lead counsel for the resulting state appeal before the First District Appellate Court of Illinois. In his state appeal, the defendant raised more than a dozen alleged trial court errors including challenges to jury selection, evidentiary rulings, closing arguments, and other double jeopardy, speedy trial and due process claims. The First District Appellate Court rejected the defendant’s challenges, and affirmed both his conviction and his sentence of 100 to 300 years in prison.

Co-Counsel:

Judge Neil Lenihan  
 (former Assistant State’s Attorney)  
 10220 South 76th Avenue, Courtroom 104  
 Bridgeview, Illinois 60455  
 (708) 974-6296



Judge Rene Goldfarb  
 (former Assistant State's Attorney)  
 50 West Washington, Courtroom 2805  
 Chicago, Illinois 60602  
 (312) 603-3897

Opposing Counsel:  
 Judge Marc W. Martin  
 (former defense counsel)  
 50 West Washington Street, Room 400  
 Chicago, Illinois 60602  
 (312) 603-2600

Terry Gillespie  
 Gillespie & Gillespie  
 53 West Jackson Boulevard, Suite 1062  
 Chicago, Illinois 60604  
 (312) 588-1281

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.)

Since 1996, I have served as a national subject matter expert and instructor across the country in several areas including the federal Racketeer Influenced and Corrupt Organizations statute (RICO), organized crime, street gangs, human trafficking, advanced investigation techniques, collaborative model prosecution, civil rights violations, and trial advocacy for various organizations, including the U.S. Department of Justice, National Association of Attorneys General, National District Attorneys Association, National Judicial College, Bureau of Justice Assistance, Upper Midwest Community Policing Institute, the American Bar Association, and Chicago Bar Association, among others.

Over the years, I also have been involved in efforts to strengthen racketeering and human trafficking legislation. I have provided testimony on these issues in Illinois in the 2010, 2011, and 2012 state legislative sessions. As part of my responsibilities with the Cook County State's Attorney's Office, I advised the Office's Legislative Unit on its efforts related to the 97th Illinois General Assembly H.B. 1907 (Illinois Street Gang RICO) (2011 – 2012); 96th Illinois General Assembly H.B. 6462 (Illinois Safe Children's Act) (2010); 96th Illinois General Assembly H.B. 6460 (Theft & Fencing Reform) (2010 – 2011); and 91st Illinois General Assembly S.B. 1332 (Safe Zone Hearsay Exception) (1998). In addition, I provided testimony on human trafficking legislation during the 2013 state legislative session in Michigan, and I advised local law enforcement officials

and victim advocates in Ohio, Oklahoma, South Carolina, and Tennessee, who were involved in initiatives on human trafficking and racketeering legislation in their states.

Additionally, I have been part of the efforts to establish and run the Cook County Regional Organized Crime Task Force (“CCROC”): I helped advocate for its creation, and I continue to oversee it in my role as the Chairman of its National Advisory Board and in my capacity as the head of the Cook County State’s Attorney’s Office’s Special Prosecutions Bureau. The CCROC constitutes a unique partnership between hundreds of different law enforcement agencies and more than 750 private-sector retail partners throughout the Midwest and the nation and was the first of its kind in the nation to be led by a prosecutor’s office. By design, the CCROC works to help consumers by increasing the prosecution of large-scale organized retail theft and fencing rings, as well as to facilitate the sharing of scarce resources and criminal intelligence to work these cases in partnership with the business needs of private companies and interests of the public at large.

While I have participated in drafting proposed legislation within the Cook County State’s Attorney’s Office and testified in support of their passage, I have never performed lobbying or registered as a lobbyist.

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.

Other than the lectures and the professional trainings previously noted, I have not taught any courses since graduation from law school. In law school, however, I taught an Honors Government class for seniors at Saint Joseph’s High School in South Bend, Indiana. I do not have a syllabus or other materials from the course.

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.

I have no deferred income arrangements. As a Cook County employee, I may receive a pension upon retirement if my years in county service vest at the ten year mark in December 2014, and as a former Assistant United States Attorney, I will receive payments upon retirement from the Federal Employee Retirement System.

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 plans, commitments, or agreements to pursue outside employment if confirmed.

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 will recuse myself in any litigation where I have played a role, or in any matter that presents an actual conflict of interest or an appearance of a conflict of interest. I would recuse myself from any matter involving my family members, including my wife, children, father, siblings, and in-laws. In general, I would address any potential or actual conflict by consulting the Code of Conduct for United States Judges and all relevant statutes, canons, and rules.

- 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 would handle any matters involving actual or potential conflicts of interest in conformity with 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other relevant statutes, ethical canons, and rules. Upon learning of any situation that a party or observer might perceive or identify as an actual or potential conflict of interest, I would alert the parties to the situation in question, and solicit their views. I would also consult with my judicial colleagues on these issues.

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.

As a prosecutor, I am not permitted to represent private clients on a pro bono basis in court proceedings or any other area that may later present a conflict of interest, and instead I engage in non-legal charitable activities. For example, I serve on the board of a not-for-profit theater company (Seanachai Theatre Company), and I have donated at fundraisers for charitable groups like the Teen Living Programs (an organization that helps homeless children in the Chicago area).

In the fall of 2012, I also served on a pro bono basis as an expert consultant in police corruption, civil rights violations and excessive force cases, for a certified minority law firm that specializes in race discrimination, civil rights, internal investigations, and court-appointed "consent decree" monitoring (Pugh, Jones, Johnson & Johnson). As part of that work, I assisted the firm in the preparation of a proposal to obtain a paid contract to serve as the court-appointed monitor for the New Orleans Police Department.

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 February 14, 2014, I submitted an application to Senator Mark Kirk's judicial selection committee. On April 10, 2014, I interviewed with the committee in Chicago, Illinois. On April 23, 2014, I interviewed with Senator Kirk in Chicago, Illinois. On May 21, 2014, I received a phone call from Senator Kirk's staff notifying me that Senator Kirk intended to recommend me to the White House for nomination to the district court, and, on May 23, 2014, Senator Kirk announced his recommendation to the public. Since May 28, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 22, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On August 5, 2014, 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.

AO 10  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Blakey, John R.	2. Court or Organization U.S. District Court	3. Date of Report 08/05/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination Date 08/05/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/01/2013 to 07/28/2014
7. Chambers or Office Address Cook County State's Attorney's Office 2650 South California Avenue, 13th Floor Chicago, Illinois 60608		
<b>IMPORTANT NOTES:</b> The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.		

**I. POSITIONS.** (Reporting individual only; see pp. 9-13 of filing instructions.)

NONE (No reportable positions.)

	POSITION	NAME OF ORGANIZATION/ENTITY
1. Board Member		Seanachai Theatre Company
2.		
3.		
4.		
5.		

**II. AGREEMENTS.** (Reporting individual only; see pp. 14-16 of filing instructions.)

NONE (No reportable agreements.)

DATE	PARTIES AND TERMS
1. 08/05/1996	Pension Plan, Cook County Pension Fund (My pension account will not vest until December 2014)
2.	
3.	

**FINANCIAL DISCLOSURE REPORT**  
Page 2 of 6

<b>Name of Person Reporting</b> Blakey, John R.	<b>Date of Report</b> 08/05/2014
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**III. NON-INVESTMENT INCOME.** *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

**A. Filer's Non-Investment Income**

NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> <i>(yours, not spouse's)</i>
1. 2012	Cook County State's Attorney Salary (W2 wages)	\$129,913.16
2. 2012	Consulting/Course Instruction	\$8,150.00
3. 2013	Cook County State's Attorney Salary (W2 wages)	\$136,772.91
4. 2013	Consulting/Course Instruction	\$16,200.00
5. 2014	Cook County Salary (gross pay to date)	\$61,032.00
6. 2014	Consulting/Course Instruction	\$8,550.00

**B. Spouse's Non-Investment Income** - *If you were married during any portion of the reporting year, complete this section.*  
*(Dollar amount not required except for honoraria.)*

NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1.	
2.	
3.	
4.	

**IV. REIMBURSEMENTS** - *transportation, lodging, food, entertainment.*  
*(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*

NONE *(No reportable reimbursements.)*

	<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1.	Exempt				
2.					
3.					
4.					
5.					

**FINANCIAL DISCLOSURE REPORT**  
Page 3 of 6

Name of Person Reporting Blakey, John R.	Date of Report 08/05/2014
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**V. GIFTS.** *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

NONE *(No reportable gifts.)*

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1. Exempt			
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*

NONE *(No reportable liabilities.)*

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.			
2.			
3.			
4.			
5.			

**FINANCIAL DISCLOSURE REPORT**  
Page 4 of 6

<b>Name of Person Reporting</b> Blakey, John R.	<b>Date of Report</b> 08/05/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

	A. Description of Assets (including trust assets)  Place "X" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period													
		(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)										
		Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)										
1.	Vanguard 500 Index Fund	A	Dividend	J	T															
2.	Brightstart Age-Based 0-6		None	J	T															
3.	Brightstart Age-Based 10-11		None	J	T															
4.	Brightstart Age-Based 12-14		None	J	T															
5.	Brightstart Age-Based 15-17		None	J	T															
6.	Bank of America (cash bank accounts)	A	Int./Div.	J	T															
7.																				
8.																				
9.																				
10.																				
11.																				
12.																				
13.																				
14.																				
15.																				
16.																				
17.																				

1. Income Gain Codes: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000  
 (See Columns B1 and D4) P = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H1 = \$1,000,001 - \$5,000,000; H2 = More than \$5,000,000  
 2. Value Codes: J = \$15,000 or less; K = \$15,001 - \$50,000; L = \$50,001 - \$100,000; M = \$100,001 - \$250,000  
 (See Columns C1 and D3) N = \$250,001 - \$500,000; O = \$500,001 - \$1,000,000; P1 = \$1,000,001 - \$5,000,000; P2 = \$5,000,001 - \$25,000,000  
 3. Value Method Codes: F3 = \$25,000,001 - \$50,000,000; Q = Appraisal; R = Cost (Real Estate Only); S = Appraisal; T = Cash Market  
 (See Column C2) U = Book Value; V = Other; W = Estimated



**FINANCIAL DISCLOSURE REPORT**  
Page 5 of 6

Name of Person Reporting	Date of Report
Blakey, John R.	08/05/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

**FINANCIAL DISCLOSURE REPORT**  
Page 6 of 6

Name of Person Reporting	Date of Report
Blakey, John R.	08/05/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/ John R. Blakey*

**NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)**

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

## FINANCIAL STATEMENT

## NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		1	359	Notes payable to banks-secured (auto)		11	884
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		18	257	Notes payable to relatives			
Unlisted securities--add schedule				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		5	070
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		332	233
Real estate owned – personal residence		430	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		21	210				
Cash value-life insurance							
Other assets itemize:							
Cook County Pension Plan		96	904				
FERS		7	936				
				Total liabilities		349	187
				Net Worth		226	479
Total Assets		575	666	Total liabilities and net worth		575	666
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)		No	
On leases or contracts				Are you defendant in any suits or legal actions?		No	
Legal Claims				Have you ever taken bankruptcy?		No	
Provision for Federal Income Tax							
Other special debt							

**FINANCIAL STATEMENT**  
**NET WORTH SCHEDULES**

<u>Listed Securities</u>	
Illinois Bright Start Age-Based 0-6 Years Portfolio	\$ 2,250
Illinois Bright Start Age-Based 10-11 Years Portfolio	3,129
Illinois Bright Start Age-Based 12-14 Years Portfolio	1,953
Illinois Bright Start Age-Based 15-17 Years Portfolio	2,924
Vanguard 500 Index Fund	8,001
Total Listed Securities	<hr/> \$ 18,257

AFFIDAVIT

John Robert Blakey

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

08/05/2014

\_\_\_\_\_  
(DATE)

*John Blakey*  
\_\_\_\_\_  
(NAME)

*Margaret Murray*  
\_\_\_\_\_  
(NOTARY)



UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).  
  
Amos Louis Mazzant, III
2. **Position**: State the position for which you have been nominated.  
  
United States District Judge for the Eastern District of Texas
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.  
  
United States District Court for the Eastern District of Texas, Sherman Division  
United States Courthouse Annex  
200 North Travis Street  
Sherman, Texas 75090
4. **Birthplace**: State year and place of birth.  
  
1965; Ellwood City, Pennsylvania
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.  
  
1987 – 1990, Baylor University School of Law; J.D., 1990  
  
1983 – 1987, University of Pittsburgh; B.A. (*magna cum laude*), 1987
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.  
  
2009 – present  
United States District Court for the Eastern District of Texas, Sherman Division  
U.S. Courthouse Annex  
200 North Travis Street

Sherman, Texas 75090  
United States Magistrate Judge

2004 – 2009  
Fifth District Court of Appeals  
600 Commerce Street, Suite 200  
Dallas, Texas 75202  
Justice

2003 – 2004, 1992 – 1993  
Wolfe, Tidwell & McCoy, LLP  
(formerly Henderson Bryant & Wolfe)  
320 North Travis Street, Suite 205  
Sherman, Texas 75090  
Of Counsel (2003 – 2004)  
Associate (1992 – 1993)

March – August 2003  
United States District Court for the Eastern District of Texas, Sherman Division  
U.S. Courthouse Annex  
200 North Travis Street  
Sherman, Texas 75090  
Law Clerk for United States Magistrate Judge Don D. Bush

1993 – 2003  
United States District Court for the Eastern District of Texas, Sherman Division  
U.S. Courthouse Annex  
200 North Travis Street  
Sherman, Texas 75090  
Career Law Clerk for United States Magistrate Judge Robert Faulkner

1990 – 1992  
United States District Court for the Eastern District of Texas, Sherman Division  
101 East Pecan Street  
Sherman, Texas 75090  
Law Clerk for United States District Judge Paul Brown

Summer 1990  
Funderburk and Funderburk  
2777 Allen Parkway #1000  
Houston, Texas 77019  
Summer Associate

February – April 1990  
United States District Court for the Western District of Texas, Waco Division  
800 Franklin Avenue

Waco, Texas 76701  
Extern (unpaid)

Summer 1989  
Tucker Arensberg, P.C.  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
Summer Associate

March – May 1989  
Baylor University School of Law  
1114 South University Parks  
Waco, Texas 76798  
Research Assistant to Professor Bill Trail

January – April 1989  
Sleeper, Johnston, Helm & Fontaine  
Waco, Texas  
Law Clerk  
(This law firm no longer exists)

Summer 1988  
Kruse & Associates  
Houston, Texas  
Law Clerk  
(This law firm no longer exists)

Summer 1987  
J&T Custard Stand  
1257 Mercer Road  
Ellwood City, Pennsylvania 16117  
Cook/Counter Person/Cashier

Other affiliations (uncompensated)

2006 – present  
Dallas Summer Musicals  
Music Hall at Fair Park  
909 1st Avenue  
Dallas, Texas 75210  
Board Member

2004 – 2007, 2008 – 2012, 2013 – present  
Sherman Community Players  
500 North Elm Street  
Sherman, Texas 75090



Past President (2011 – 2012)  
President (2010 – 2011)  
President-Elect (2009 – 2010)  
Board Member (2004 – 2007, 2008 – 2011, 2013 – present)

2003 – present  
Judge Paul Brown American Inn of Court  
(no physical address)  
Sherman, Texas  
Vice-President

2004 – 2007  
Denison Lions Club  
1030 West Crawford Street  
Denison, Texas 75020  
Second/Third Vice-President

2004 – 2005  
Leadership Sherman Alumni Association  
(no longer in existence)  
Sherman, Texas  
President

2004  
Girls Incorporated of Sherman  
(no longer in existence)  
Sherman, Texas  
Board Member

2003 – 2005  
Keep Sherman Beautiful  
City of Sherman  
220 West Mulberry Street  
P.O. Box 1106  
Sherman, Texas 75090  
Board Member

2003  
Denison Police Citizens Academy  
108 West Main Street  
Denison, Texas 75020  
President of Class

2000 – 2003  
State Bar of Texas  
Texas Law Center

1414 Colorado Street  
 Austin, Texas 78701  
 Board of Directors  
 State Bar Executive Committee

1996 – 2003  
 Texas Young Lawyers Association  
 Texas Law Center  
 1414 Colorado Street, 4th Floor  
 Austin, Texas 78701  
 Past President (2002 – 2003)  
 President (2001 – 2002)  
 President-Elect (2000 – 2001)  
 Vice-President (1999 – 2000)  
 Secretary (1998 – 1999)  
 Executive Committee (1998 – 2003)  
 Director District 4 (1996 – 1998)

1994 – 2003  
 Grayson County Young Lawyers Association  
 (no longer in existence)  
 Sherman, Texas  
 President (1995 – 1996)  
 President-Elect (1994 – 1995)  
 Director (1994 – 2003)

1993 – 2000  
 Sherman Kiwanis Club  
 P.O. Box 592  
 Sherman, Texas 75091  
 Past President (1999 – 2000)  
 President (1998 – 1999)  
 President-Elect (1997 – 1998)  
 Vice-President (1996 – 1997)  
 Secretary (1995 – 1996)  
 Treasurer (1994 – 1995)  
 Board Member (1993 – 1994)

1995 – 1998  
 Grayson County Bar Association  
 (no physical address)  
 Sherman, Texas  
 President (1997 – 1998)  
 President-Elect (1996 – 1997)  
 Vice-President (1995 – 1996)

1993 – 1995  
 Saint Mary's Knights of Columbus  
 727 South Travis Street  
 Sherman, Texas 75090  
 Deputy Grand Knight

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 did not serve in the U.S. 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.

American Bar Association Young Lawyer Fellow (2002 – present)  
 Texas Bar Foundation Life Fellow (1996 – present)  
 The Honorary Serjeant's Inn of Dallas-Ft. Worth Inns of Court (2012)  
 Joe Wolfe and Mary Pittman Service Award (2008)  
 Dallas Bar Association Presidential Citation (2006)  
 Dallas Bar Foundation Fellow (2004)  
 Dallas Association of Young Lawyers Foundation Fellow (2004)  
 United States Marshal's Service Distinguished Service Certificate (2003)  
 Baylor University Young Lawyer of the Year (2002)  
 Kiwanis George F. Hixon Fellow Award (2002)  
 Kiwanis Distinguished President (2000)  
 Texas Young Lawyers' President's Award (1997 – 1998)  
 Special Service Award, Eastern District of Texas (1997)  
 Kiwanis Distinguished Secretary (1997)  
 Texas Young Lawyers' Director of the Year Award (1996 – 1997)  
 Outstanding Young Men of America (1996)  
 Awards Committee, Eastern District of Texas (1996)  
 Kiwanian of the Year (1994 – 1995)  
 Kiwanis Ruby K Award (1995)  
 American Jurisprudence Award for Administration of Estates (1990)  
 Baylor University Leon Jaworski Debate Fellowship (1987 – 1990)  
 Harvey Richey Moot Court Society (1988)  
 William Pitt Debate Union Scholarship (1984 – 1986)

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.

American Bar Association (1991 – 2005)

- American Bar Association Young Lawyers Division (1998 – 2003)
  - Delegate at midyear and annual meetings (1998 – 2003)
  - Service to Seniors Team Member (1998 – 1999)
- Dallas Bar Association (2004 – present)
- Dallas Association of Young Lawyers Judicial Member (2004 – present)
- Eastern District of Texas Bar Association (1996 – 2004, 2009 – present)
  - Membership Chair (1996 – 1999)
  - Recording Secretary (1999 – 2000)
- Federal Magistrate Judges Association (2010 – present)
- Grayson County Bar Association (1990 – present)
  - President (1997 – 1998)
  - President-Elect (1996 – 1997)
  - Vice-President (1995 – 1996)
- Grayson County Young Lawyers Association (1994 – 2003)
  - President (1995 – 1996)
  - President-Elect (1994 – 1995)
  - Director (1994 – 2003)
- Judge Paul Brown American Inn of Court (2003 – present)
  - Vice-President (2003 – present)
- State Bar of Texas (1990 – present)
  - Board of Directors (2000 – 2003)
  - State Bar Executive Committee (2000 – 2003)
- Texas Young Lawyers Association (1990 – 2003)
  - Past President (2002 – 2003)
  - President (2001 – 2002)
  - President-Elect (2000 – 2001)
  - Vice-President (1999 – 2000)
  - Secretary (1998 – 1999)
  - Executive Committee (1998 – 2003)
  - Director District 4 (1996 – 1998)
  - Nominations Committee (2000 – present)
  - Young Lawyer of Texas/Liberty Bell Award/Mentor Award Committees (2003 – present)
- United States District Court Committee on Court Security (2013 – present)
- United States District Court Criminal Justice Act Plan Committee (2012 – present)

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.

Texas, 1990

Pennsylvania, 1992

There have been no lapses in membership. I took inactive status in Pennsylvania on July 1, 2000. My Pennsylvania bar status changed to judicial status in July 2006.

- 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 Fifth Circuit, 1992

United States District Court for the Eastern District of Texas, 1993

United States District Court for the Northern District of Texas, 1993

My membership in the United States Court of Appeals for the Fifth Circuit lapsed in 2000 because I did not renew my membership. There have been no other lapses.

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.

Area Agency on Aging of Texoma's Elder Rights Panel (1996 – 2001)

Baylor Law Alumni Association (1990 – present)

Boy Scouts of America (1998 – 2000)

Merit Badge Counselor Dean (1998 – 2000)

Dallas Summer Musicals (2006 – present)

Board Member (2006 – present)

- Outreach Committee (2007 – 2009)
- Special Projects Committee (2006 – 2007)
- Denison Lions Club (2003 – 2010)
  - Second/Third Vice-President (2004 – 2007)
- Denison Police Citizens Academy (2003)
  - President (2003)
- Girls Incorporated of Sherman (2004)
  - Board Member
- Grayson County Republican Women's Club (approximately 2003 – 2008)
- Judge Paul Brown's Portrait Presentation Committee Member (1994)
- Keep Sherman Beautiful (2003 – 2005)
  - Board Member (2003 – 2005)
- Leadership Sherman (2003 – 2004)
- Leadership Sherman Alumni Association (2004 – 2005)
  - President (2004 – 2005)
- Saint Mary's Knights of Columbus (1992 – present)
  - Deputy Grand Knight (1993 – 1995)
- Sherman Community Players (2004 – present)
  - Past President (2011 – 2012)
  - President (2010 – 2011)
  - President-Elect (2009 – 2010)
  - Board Member (2004 – 2007, 2008 – 2011, 2013 – present)
  - Finance and Budget Committee (2008 – present)
  - Benefit Committee (2008 – 2010, 2011 – present)
  - Personnel/By-law Committee (2004 – 2007, 2008 – present)
- Sherman Kiwanis Club (1992 – present)
  - Past President (1999 – 2000)
  - President (1998 – 1999)
  - President-Elect (1997 – 1998)
  - Vice-President (1996 – 1997)
  - Secretary (1995 – 1996)
  - Treasurer (1994 – 1995)
  - Board Member (1993 – 1994)
  - Breakfast with Santa Committee (1999, 2001 – 2003)
  - Scholarship Committee (1993 – 1998)

Austin College Basketball Classic Committee (1996 – 1997)  
Publicity Committee (1995 – 1996)  
Pancake Committee (1993 – 1994)

South Grayson Republican Club (approximately 2003 – 2008)

University of Pittsburgh Alumni Association (2004 – present)

- 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.

The Knights of Columbus is a Catholic fraternal organization limited to men, although there is a corresponding organization for women. Prior to my joining the Denison Lions Club and the Sherman Kiwanis Club, membership was restricted to men. To my knowledge, none of the other organizations discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implications 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.

*Honorable Paul Brown*, 2013 Judicial Conference of the Fifth Circuit (2013). Copy supplied.

*What a Great Year It's Been*, 65 Tex. B.J. 422 (2002). Copy supplied.

*The Need for the Gift of Life*, 65 Tex. B.J. 345 (2002). Copy supplied.

*The Stakes of Understanding*, 65 Tex. B.J. 255 (2002). Copy supplied.

*Welcome to the Profession and TYLA*, 65 Tex. B.J. 149 (2002). Copy supplied.

*Teaching Our Kids Right from Wrong*, 65 Tex. B.J. 65 (2002). Copy supplied.

*Inspiration, Reflection, and the Holidays*, 64 Tex. B.J. 1073 (2001). Copy supplied.

*Ideals Worth Defending*, 64 Tex. B.J. 1005 (2001). Copy supplied.

*Making Time for TYLA*, 64 Tex. B.J. 790 (2001). Copy supplied.

*Working for a Good Cause*, 64 Tex. B.J. 658 (2001). Copy supplied.

*My Mother's Influence...*, 64 Tex. B.J. 561 (2001). Copy supplied.

Co-author, Supreme Team curriculum, Texas Young Lawyers Association (1997). Copy supplied.

Contributor, Texas Association of Business Labor Law Quarterly Review (1992 – 1996). I provided case summaries from employment-related cases from the Sherman Division. I did not retain any of the case summaries, and I have been unable to locate a copy of the reviews.

- 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.

While serving as the Texas Young Lawyers Association President-elect, President, and Past President from 2000 to 2003, I also was a board member of the State Bar of Texas. Although I did not personally prepare any reports, I did vote on their submission or publication in my capacity as a board member of the State Bar of Texas. I have listed the materials on which I voted that I was able to identify after searching my records and reviewing the board minutes from 2000 to 2003. Although I voted on many matters as a board member, the following are the only policy matters responsive to the question:

The Board of Directors approved the request to join the National Association of IOLTA programs Amicus Curiae brief with the United States Supreme Court, in either the Ninth Circuit and/or the Fifth Circuit case, supporting the positions of the IOLTA program, and the Board authorized the State Bar General Counsel, the Chair of the Board, and the Chair of the Board Administrative Committee to review and approve the Amicus Curiae brief prior to filing. A motion to approve this course of action was made and I seconded the motion. A copy of the Amicus brief is available at 2002 WL 31405680.

The Board of Directors approved the request to file an Amicus Curiae



brief with the United States Court of Appeals for the Fifth Circuit in the *Washington Legal Foundation v. Texas Equal Access to Justice Foundation*, Case No. 00-50139, supporting the positions of the IOLTA program, and the Board authorized the State Bar General Counsel to sign a brief against Washington Legal Foundation. I have been unable to obtain a copy, but the brief would have been substantially similar to the amicus brief filed with the Supreme Court.

As a member of the State Bar of Texas Board of Directors from 2000 to 2003, I attended board meetings where there were discussions regarding issues of importance to Texas lawyers. Meeting minutes available at [http://www.texasbar.com/Content/NavigationMenu/AboutUs/BoardofDirectors/MeetingAgendasMinutes/BOD\\_Archives.htm](http://www.texasbar.com/Content/NavigationMenu/AboutUs/BoardofDirectors/MeetingAgendasMinutes/BOD_Archives.htm).

While serving as the vice-president of the Texas Young Lawyers Association from 1999 to 2000, I was the officer advisor to the We the Jury committee project, which was designed to educate high school students about the jury system. As the officer advisor to the committee, I was involved in the planning of the project as well as the editing of the curriculum guide. Although the We the Jury program was implemented nationwide by the American Bar Association Young Lawyer Division, I was only involved in the project in Texas. Representative curriculum guide supplied and video available at: <http://www.tyla.org/tyla/index.cfm/resources/educators-students/high-school/we-the-jury/>.

- 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.

After being initially appointed as a justice on the Texas Fifth District Court of Appeals in July 2004, I ran for reelection in November 2004 and 2006. I also ran to become a judge of the 15th District Court of Grayson County from August 2003 to March 2004. During the course of these campaigns, I filled out a number of candidate questionnaires. Although I have not retained copies of the questionnaires and I do not recall every group for whom I filled out a questionnaire, I have supplied the questionnaires that I have been able to locate after a diligent search of my records and the Internet.

The State Bar of Texas Board of Directors approved the Judiciary Committee's request for the board to write Congress in support of the Volcker Commission Report. Approved on April 11, 2003. Copy supplied.

The State Bar of Texas Board of Directors approved the Legislative Policy Subcommittee's report regarding various amendments to the Texas Family Code. Approved on September 20, 2002. Copy supplied.

The State Bar of Texas Board of Directors approved the Legislative Policy Committee's recommendations regarding the State Bar of Texas' legislative passage. Approved on October 6, 2000. 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.

I have searched my files as well as public databases and the Internet to compile the list of speaking engagements below. I have attempted to generate as complete a list as possible; however, it is possible there have been events I have been unable to identify or recall.

2009 – present: I preside over Naturalization Ceremonies for new citizens. I have conducted 14 ceremonies, on the following dates: July 2, 2009, November 6, 2009, March 19, 2010, July 2, 2010, January 11, 2011, June 10, 2011, November 7, 2011, June 29, 2012, November 8, 2012, April 19, 2013, July 2, 2013, September 24, 2013, October 5, 2013, and December 17, 2013. All of the ceremonies were held in Irving, Texas with the exception of the October 5, 2013 ceremony, which was held in Plano, Texas. I have no notes, transcripts, or recordings. Press coverage for the July 2, 2010 ceremony is supplied.

1993 – 2000, 2013 – present: Presenter, "Kiwanis Student of the Month," Sherman Kiwanis Club, Sherman, Texas. I started this project in 1993. The club honors one high school senior each month during the school year. I present the award to the student and give an overview of the student's background. I have no notes, transcripts, or recordings. The address for the Sherman Kiwanis Club is P.O. Box 592, Sherman, Texas 75091.

March 31, 2014: Speaker, "General Billy Mitchell Award Presentation to Cadet 2nd Lieutenant Catherine Flood," Civil Air Patrol Texas Wing Texoma Composite Squadron, Denison, Texas. I presented the Billy Mitchell award to Catherine Flood and explained to the cadets my job duties and jurisdiction. I have no notes, transcript, or recording. The address for the Texoma Composite Squadron is 4331 Airport Drive, Denison, Texas 75020.

January 15, 2014: Panelist, "Judicial Forum CLE," Dallas Bar Association Labor and Employment Law Section, Dallas, Texas. I have no notes, transcript, or recording, but the questions from the moderator are supplied. The address for the

Dallas Bar Association is 2101 Ross Avenue, Dallas, Texas 75201.

November 18, 2013: Panelist, "View from the Bench Post AIA," IP Summit: Post AIA – Strategies in Litigation and Patent Prosecution at Fordham, New York, New York. I have no notes, transcript, or recording, but the questions from the moderator are supplied. The address for Fordham University School of Law is 113 West 60th Street, New York, New York 10023.

November 1, 2013: Panelist, "Trial Judges Panel/Interactive Discussion with Audience on Things Patent & Beyond," Eastern District of Texas Bench Bar Conference, Plano, Texas. I have no notes, transcript, or recording, but the questions from the moderator are supplied. The address for the Eastern District Bar Association is P.O. Box 2649, Longview, Texas 75606.

May 6, 2013: Speaker, "Memorial to Judge Paul Brown," Fifth Circuit Conference, Fort Worth, Texas. Speech supplied.

April 25, 2013: Panelist, "Complex Litigation Involving Multiple Parties," Federal Circuit Bar Association/Eastern District of Texas Bar Association, Plano, Texas. I was part of a panel that addressed multi-defendant patent cases in a post-EMC world. I have no notes, transcript, or recording. The address for the Eastern District Bar Association is P.O. Box 2649, Longview, Texas 75606.

October 26, 2012: Panelist, "Patent Dim Sum: The Ultimate Judge's Panel," Eastern District of Texas Bench Bar Conference, Plano, Texas. I was part of a panel that addressed patent-related issues from a judicial perspective. I have no notes, transcript, or recording. The address for the Eastern District Bar Association is P.O. Box 2649, Longview, Texas 75606.

September 27, 2011: Panelist, "Electronic Polling Exercise – Interactive Discussions. Views From the Bench & Bar On a Variety of Current Pretrial, Trial and Appellate Issues," Eastern District of Texas Bench Bar Conference Jointly With the Federal Circuit Bar Association, Irving, Texas. Attorneys attending the conference would vote on various topics related to practice in the Eastern District of Texas and the panel would respond to the vote outcomes. I have no notes, transcript, or recording. The address for the Eastern District Bar Association is P.O. Box 2649, Longview, Texas 75606.

September 27, 2011: Panelist, "Magistrate Panel: Nuts & Bolts of Effective Advocacy," Eastern District of Texas Bench Bar Conference Jointly with the Federal Circuit Bar Association, Irving, Texas. The panel discussed various issues related to the role of magistrate judges in the Eastern District and tips for success in practicing in the Eastern District of Texas. I have no notes, transcript, or recording. The address for the Eastern District Bar Association is P.O. Box 2649, Longview, Texas 75606.

May 20, 2011: Panelist, "Federal Judges Panel," State Bar of Texas Federal Court Practice Course, Dallas, Texas. I was part of a panel that addressed various federal procedural issues. I have no notes, transcript, or recording. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

May 20, 2011: Panelist, "Motions: Dispositive and Otherwise," State Bar of Texas Federal Court Practice Course, Dallas, Texas. PowerPoint supplied.

March 2011: Speaker, "Staying in School," Henry Sory Elementary School, Sherman, Texas. I spoke at the Husky Honors Celebration on the importance of school. I have no notes, transcript, or recording. The address for Henry Sory Elementary is 120 Binkley Park Drive, Sherman, Texas 75092.

2001 – 2010: Speaker, "Junior Judges: Helping Kids Make Smart Choices." As President of the Texas Young Lawyers Association, I created this program, and made presentations about this program to various Kiwanis Clubs, Rotary Clubs, Lions Club, and various other civic groups. I have also taught the program to 4th grade classes on numerous occasions. I estimate that in total I have given presentations about Junior Judges on approximately 50 occasions. Where I had a record of presentations, I have provided them. I have provided specific information as to location and dates where I have been able to find them. Representative curriculum guide supplied and video available at: [www.tyla.org/tyla/index.cfm/resources/educators-students/elementary-school/junior-judges](http://www.tyla.org/tyla/index.cfm/resources/educators-students/elementary-school/junior-judges).

March 29, 2006: Speaker, "Junior Judges: Helping Kids Make Smart Choices," Oak Cliff Lions Club, Dallas, Texas. As the program speaker, I discussed the Junior Judges project. I have no notes, transcript, or recording. The address for the Lions Club is 1401 Stemmons Avenue, Dallas, Texas 75208.

January 20, 2006: Speaker, "Junior Judges: Helping Kids Make Smart Choices," Greater Irving Republican Club, Irving, Texas. As the program speaker, I discussed the Junior Judges project. I have no notes, transcript, or recording, but press coverage is supplied. The address for the club is 1725 North MacArthur Boulevard, Irving, Texas 75061.

June 8, 2005: Speaker, either on "Junior Judges: Helping Kids Make Smart Choices," or "An Overview of the 5th Court of Appeals," Metrocrest Republican Club, Farmers Branch, Texas. I have no notes, transcript, or recording. The address for the club is 14055 Dennis Lane, Farmers Branch, Texas 75234.

February 2005: Speaker, "Junior Judges: Helping Kids Make Smart Choices," Junior Tuesday Literary Club, Sherman, Texas. As the program speaker, I discussed the Junior Judges project. I have no notes, transcript,

or recording, but press coverage is supplied. The address for the Ella Mae Brown Crisis Center is P.O. Box 2112, Sherman, Texas 75091.

July 30, 2003: Speaker, "Junior Judges: Helping Kids Make Smart Choices," Grayson County Rotary Club, Sherman, Texas. As the program speaker, I discussed the Junior Judges project. I have no notes, transcript, or recording. The address for the Rotary Club is Kelly Square, 115 South Travis Street, Sherman, Texas 75090.

June 2003: Speaker, "Junior Judges: Helping Kids Make Smart Choices," Hyde Park Elementary, Denison, Texas. As the program speaker, I discussed the Junior Judges project. I have no notes, transcript, or recording, but press coverage is supplied. The address for Hyde Park Elementary is 1701 South Hyde Park Avenue, Denison, Texas 75020.

October 17 and 18, 2001: Speaker, "Junior Judges: Helping Kids Make Smart Choices," Wakefield Elementary, Sherman, Texas. As the program speaker, I discussed the Junior Judges project. I have no notes, transcripts, or recordings. The address for Wakefield Elementary is 400 Sunset Boulevard, Sherman, Texas 75092.

October 22, 2010: Panelist, "Interactive Session/Lawyers & Judges e-Polled," Eastern District of Texas Bench Bar Conference, Plano, Texas. Statements for panel discussion supplied. I have no notes, transcript, or recording. The address for the Eastern District Bar Association is P.O. Box 2649, Longview, Texas 75606.

October 16, 2009: Panelist, "You Be the Judge: Anonymous, Interactive Electronic Polling Segment, Act II," Eastern District of Texas Bench Bar Conference, Frisco, Texas. Attorneys attending the conference would vote on various topics and the panel would respond to the vote outcomes. The proposed questions are supplied. I have no notes, transcript, or recording. The address for the Eastern District Bar Association is P.O. Box 2649, Longview, Texas 75606.

October 15, 2009: Panelist, "Introduction to Federal Practice," Eastern District of Texas Bench Bar Conference, Frisco, Texas. The panel discussed what to expect, from a judicial perspective, when you are new to federal court practice. I have no notes, transcript, or recording. The address for the Eastern District Bar Association is P.O. Box 2649, Longview, Texas 75606.

May 15, 2009: Speaker, remarks at my investiture ceremony as a United States Magistrate Judge, United States District Court for the Eastern District of Texas, Sherman, Texas. Transcript supplied.

April 3, 2009: Panelist, "Practical Tips for Presenting Insurance Issues to Appellate Judges," State Bar of Texas Advanced Insurance, Dallas, Texas. Notes supplied.

March 2008: Speaker, Grayson County Lincoln Day Luncheon, Sherman, Texas. I introduced Justice Wainwright as a speaker at the luncheon and I gave brief remarks after being presented with a service award. I have no notes, transcripts, or recordings, but press coverage is supplied. The address for the Grayson County Republican Party is P.O. Box 3122, Sherman, Texas 75091.

Approximately 2007 – 2008: Speaker, "An Overview of the 5th Court of Appeals," Plano Bar Association, Plano, Texas. Notes supplied.

2005 – 2008: Panelist, "Judges' Panel," Dallas Bench Bar Conference, Horseshoe Bay, Texas. Although I cannot locate records for the conferences, I recall serving on one or two judges' panels where it was typical for the judges to offer practice tips to the lawyers attending the conference. I have no notes, transcripts, or recordings. The address for the Dallas Bar Association is 2101 Ross Avenue, Dallas, Texas 75201.

September 7, 2007: Panelist, "The Most Underutilized Advocacy Tools," State Bar of Texas Civil Appellate Practice Course, Austin, Texas. I was part of a panel that discussed appellate issues from a judicial perspective. I have no notes, transcript, or recording. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

September 2007: Speaker, "An Overview of the 5th Court of Appeals," Denison Rotary Club, Denison, Texas. My remarks addressed the role of a justice on the court of appeals. I have no notes, transcript, or recording. The address for the Denison Rotary Club's meetings is St. Luke's Episcopal Church, 427 West Woodard, Denison, Texas 75020.

June 22, 2007: Presenter, "Outstanding Mentor Award," Texas Young Lawyers Association's Annual Meeting, San Antonio, Texas. I presented the award to the winner of the Outstanding Mentor Award, which goes to a lawyer that demonstrates a commitment to mentoring young lawyers in his or her legal community. I have no notes, transcript, or recording. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

April 12, 2007: Moderator, "The Judge as Target: When the Law Goes One Way and Public Opinion the Other," Austin College Law Symposium, Sherman, Texas. I moderated a panel of current and former state supreme court justices that discussed judicial independence and public opinion. Notes supplied.

October 20, 2006: Speaker, retirement ceremony for the Honorable Paul Brown, United States District Judge, United States District Court for the Eastern District of Texas, Sherman, Texas. Remarks supplied.

October 19, 2006: Panelist, "Practice before the Dallas Court of Appeals: Preparation of Briefs and Oral Argument," Dallas Bar Association's Appellate Law Section, Dallas, Texas. I was part of a panel that discussed practice tips on preparing briefs and for oral argument. I have no notes, transcript, or recording. The address for the Dallas Bar Association is 2101 Ross Avenue, Dallas, Texas 75201.

November 10, 2005: Speaker, "Appellate Perspective Regarding Ethical Concerns," Dallas Bar Association's CLE Committee Evening Ethics Program, Dallas, Texas. Notes supplied.

July 2005: Speaker, "Judicial Ethics in Campaigning," Dallas Republican Party, Dallas, Texas. Along with Justice Lang, I made remarks regarding what judicial ethics allowed for judges in a campaign. I have no notes, transcript, or recording. The address for the Dallas County Republican Party is 10300 North Central Expressway, Suite 345, Dallas, Texas 75231.

June 2005: Panelist, "Panel Discussion of State Appellate Justices," University of Texas Advanced Appellate Conference, Austin, Texas. The panel discussed general tips for appellate practice. I have no notes, transcript, or recording. The address for the University of Texas School of Law Continuing Legal Education is 727 East Dean Keeton Street, Austin, Texas 78705.

June 24, 2005: Presenter, "Liberty Bell Award," Texas Young Lawyers Association's Annual Meeting, Dallas, Texas. I presented the award to the winner of the Liberty Bell Award, which goes to a non-lawyer. I have no notes, transcript, or recording. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

April 2005: Speaker, "An Overview of the Justice System," Denison Knights of Columbus, Denison, Texas. I was the program speaker, and I discussed the rule of law and how a judge makes decisions. I have no notes, transcript, or recording. The address for the Denison Knights of Columbus is 2027 South Austin Avenue, Denison, Texas 75020.

August – November 2004: I gave a number of campaign speeches and participated in debates while running to serve the remainder of a term as a justice on the Texas Fifth District Court of Appeals. I do not recall the specific dates or locations of these events. I spoke to various civic, political, and professional organizations, and I also appeared at various forums. Although I do not recall every group to which I spoke, they included the Dallas Morning News Editorial Board and the Mesquite Bar Association. I also attended various Republican clubs

where I was introduced as a candidate. Although I do not recall every club I visited, I recall that they included the Dallas County Council of Republican Women, Golden Corridor Republican Women, Grayson County Republican Women, Greater Dallas Pachyderm Club, Kaufman County Republican Women, Mesquite Republican Women's Club, Metrocrest Republican Club, Northwood Republican Women, Park Cities Republican Women, and Rockwall Republican Men. At all events, if given the opportunity, I generally spoke about my qualifications, experience, and community involvement. I typically did not speak from a prepared text, and I have not been able to locate any such texts. I have no notes, transcripts, or recordings.

September 17, 2004: Speaker, "Investiture Ceremony for Justice of Fifth Court of Appeals," Sherman, Texas. Transcript provided.

September 17, 2004: Speaker, "Investiture Ceremony for Justice of Fifth Court of Appeals," Dallas, Texas. There was no transcript or recording made of the Dallas investiture, but the remarks would be similar to the remarks made at the Sherman investiture. The address for the Dallas Bar Association is 2101 Ross Avenue, Dallas, Texas 75201.

June 25, 2004: Presenter, "Outstanding Young Lawyer of Texas Award," Texas Young Lawyers Association's Annual Meeting, San Antonio, Texas. I presented the award to the most outstanding young lawyer for the past year. I have no notes, transcript, or recording. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

August 2003 – March 2004: I gave a number of campaign speeches and participated in debates while running to become a judge of the 15th District Court of Grayson County. I do not recall the specific dates or locations of these events. I spoke to various civic, political, and professional organizations, and I also appeared at various forums. Although I do not recall every group to which I spoke, they included the Child and Family Guidance Center of Texoma, the Grayson County Bar Association, the Grayson County Criminal Defense Lawyers Association, the Grayson County Republican Party, the Grayson County Republican Women, the League of Women Voters, the Pottsboro Chamber of Commerce, the South Grayson Republican Club, and the Whitesboro Chamber of Commerce. At all events, I generally spoke about my qualifications, experience, and community involvement. I typically did not speak from a prepared text, and I have not been able to locate any such texts. I have no notes, transcripts, or recordings, but press coverage is supplied where available.

July 2003: Speaker, "Practical Tips for Practicing before the Court," Collin County Community College Paralegal Class, Plano, Texas. Notes supplied.

June 13, 2003: Presenter, "Awards of Achievement," Texas Young Lawyers Association's Annual Meeting, Houston, Texas. I presented the award to the



statewide local affiliate winners. I have no notes, transcript, or recording. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

November 22, 2002: Presenter, "Investiture Ceremony for United States District Judge Ron Clark," United States District Court for the Eastern District of Texas, Sherman, Texas. Transcript supplied.

October 2002: Speaker, "Junior Judges: Helping Kids Make Smart Choices," American Bar Association Young Lawyers Division's Young Lawyer Conference, Cincinnati, Ohio. I made a presentation about the Junior Judges project. I have no notes, transcript, or recording. The address for the American Bar Association Young Lawyers Division is 321 North Clark Street, 18th Floor, Chicago, Illinois 60654.

July 2002: Speaker, "Practical Tips for Practicing before the Court," Collin County Community College Paralegal Class, Plano, Texas. I used the same notes as those previously supplied for July 2003 event.

June 14, 2002: Speaker, "President's Farewell Address," Texas Young Lawyers Association's Annual Meeting, Dallas, Texas. As the outgoing president, I made general comments about my year and thanked the many people who made the year a success. I also presented several awards to lawyers who worked on projects during my term as president. I have no notes, transcript, or recording, but press coverage is provided. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

April 2002: Speaker, "Understanding the Role of the Constitution in Today's Modern Society," We the People Competition hosted by the State Bar of Texas Law-Related Education Department, Austin, Texas. Remarks supplied.

November 2001: Speaker, "Welcome to the Profession," New Lawyer Induction Ceremony, Austin, Texas. Remarks supplied.

June 2001: Speaker, Swearing in as President of Texas Young Lawyers Association, Austin, Texas. Remarks supplied.

March – April 2000: I gave a number of speeches while running for President-elect of the Texas Young Lawyers Association. I made presentations to the following bar associations: Amarillo Young Lawyers Association; Beaumont Young Lawyers Association; Dallas Association of Young Lawyers; El Paso Young Lawyers Association; Fort Worth/Tarrant County Young Lawyers Association; Houston Young Lawyers Association; Laredo Young Lawyers Association; Lubbock Young Lawyers Association; Waco Young Lawyers Association. I generally discussed my Texas Young Lawyers experience, my qualifications to be President-elect, and my plans for the association, if elected. I

have no notes, transcripts, or recordings. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

November 5, 1999: Speaker, State Bar of Texas Federal Court Practice Seminar, Dallas, Texas. I was co-director of the program and introduced various speakers. I have no notes, transcript, or recording. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

October 1998: Speaker, "Educating Senior Citizens About Their Legal Rights," American Bar Association Young Lawyer Division's Young Lawyer Conference, Philadelphia, Pennsylvania. I made a presentation about how to set up seminars to educate senior citizens. I have no notes, transcript, or recording. The address for the American Bar Association Young Lawyers Division is 321 North Clark Street, 18th Floor, Chicago, Illinois 60654.

October 22, 1998: Speaker, "Vernon Holland Memorial Dedication Ceremony," Sherman Kiwanis Club, Sherman, Texas. I gave opening remarks at the Vernon Holland Memorial Dedication Ceremony as President of Sherman Kiwanis Club. I have no notes, transcript, or recording. The address for the Sherman Kiwanis Club is P.O. Box 592, Sherman, Texas 75091.

July 1998: Speaker, "Elder Rights," State Bar of Texas Bar Leaders Conference, Montgomery, Texas. I made remarks about how to set up seminars to educate senior citizens about their legal rights. I have no notes, transcript, or recording. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

May 1998: Speaker, "Supreme Team: Layin' Down the Law," American Bar Association Young Lawyer Division's Young Lawyer Conference, La Jolla, California. I made a presentation on how to implement Supreme Team in high schools. I have no notes, transcript, or recording. The address for the American Bar Association Young Lawyers Division is 321 North Clark Street, 18th Floor, Chicago, Illinois 60654.

October 1997: Speaker, "Preparing for the Golden Years," American Bar Association Young Lawyer Division's Young Lawyer Conference, Tampa, Florida. I made remarks about how to set up seminars to educate senior citizens about their legal rights. I have no notes, transcript, or recording. The address for the American Bar Association Young Lawyers Division is 321 North Clark Street, 18th Floor, Chicago, Illinois 60654.

July 1997: Speaker, "Supreme Team: Layin' Down the Law," State Bar of Texas Bar Leaders Conference, Montgomery, Texas. I made a presentation on how to implement Supreme Team in high schools. I have no notes, transcript, or recording. The address for the State Bar of Texas is 1414 Colorado Street, Austin, Texas 78701.

December 1994: Presenter, "Portrait Presentation in Honor of the Honorable Paul Brown," United States District Court for the Eastern District of Texas, Sherman, Texas. Transcript supplied.

1987: In my senior year of college, to the best of my recollection, I prepared and presented a paper regarding President Ronald Reagan and the art of communication in relation to the World Court and Nicaragua, which I presented at a panel discussion for the Pittsburgh Chapter of the World Federalist Society. To the best of my recollection, I received the Elizabeth Esslinger Bloch Research Scholarship for this paper. I have no notes, transcript, or recording. Although I have checked my records, I do not have a copy of the paper. The address for the Pittsburgh Chapter is 239 Fourth Avenue Suite 1607, Pittsburgh, Pennsylvania 15222.

- 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.

I searched my files as well as publically available Internet sources to create as comprehensive a response to this question as possible, but I may have given other interviews that I am unable to recall or identify.

Peter Urban, Steve Tetreault, and Jerrie Whiteley, *Renamed Federal Courthouse in Sherman a Tribute to Former Judge*, Herald Democrat, Dec. 20, 2013. Copy supplied.

Jerrie Whiteley, *Federal Judge Paul Brown Dies at Age 86*, Herald Democrat, Nov. 28, 2012. Copy supplied.

*TYLA History*, the Texas Young Lawyers Association, 2010. The video is available at <http://www.tyla.org/tyla/index.cfm/about/tyla-history>.

Bryon Romine, *Judge Mazzant: U.S. Magistrate Judge in Eastern District*, Dallas Bar Association/Headnotes, June 2009. Copy supplied.

*Inadmissible: 5th Court Shuffle?* Texas Lawyer, Jan. 26, 2009. Copy supplied.

Jerrie Whiteley, *Sherman Man Appointed as U.S. Magistrate Judge*, Herald Democrat, Jan. 17, 2009. Copy supplied.

Holland Sullivan, Jr., *Judicial Profile: Justice Amos Mazzant*, Dallas Bar Association, Oct. 2007. Copy supplied.

Morgan Morrison, *Determined to Make a Difference*, 69 Tex. B.J. 556 (2006). Copy supplied.

*Dallas Students Witness Law and Order Firsthand*, 69 Tex. B.J. 458 (2006). Copy supplied.

Anita Davis, *Texas Bar Foundation Celebrates Its 40th Anniversary*, 69 Tex. B.J. 176 (2006). Copy supplied.

Morgan Morrison, *Amarillo Attorney Takes Office as the 2005-06 Texas Young Lawyers Association President*, 68 Tex. B.J. 511 (2005). Copy supplied.

Jerrie Whiteley, *'Gentleman Lawyer' Joseph Wolfe Dies*, Herald Democrat, Jan. 6, 2005. Copy supplied.

Edward Southerland and Joyce Godwin, *Two Grayson County Men Get Appointments*, Herald Democrat, July 16, 2004. Copy supplied.

Jerrie Whiteley, *Recount Set in Primary*, Herald Democrat, Mar. 24, 2004. Copy supplied.

Jerrie Whiteley, *Fallon New Judge of the 15th Court*, Herald Democrat, Mar. 10, 2004. Copy supplied.

*Mazzant Touts Experience*, Herald Democrat, Jan. 13, 2004. Copy supplied.

Anita Davis, *Marshall Wood*, 66 Tex. B.J. 502 (2003). Copy supplied.

*First News Forum: Junior Judges*, KXII TV, Dec. 7, 2003. Video supplied.

*Making Good Choices*, Herald Democrat, Oct. 17, 2003. Copy previously supplied in response to 12d.

*Helping Kids Make Smart Choices*, TYLA Newsletter, Aug. 22, 2002. Copy supplied.

*Junior Judges "Helping Kids Make Smart Choices,"* Municipal Court Reporter, May 2002. Copy supplied.

Anita Davis, *Junior Judges: Helping Kids Make Smart Choices*, 65 Tex. B.J. 66 (2002). Copy supplied.

*An Interview with the President of the Texas Young Lawyers Association*, 64 Tex. B.J. 562 (2001). Copy supplied.

*Junior Judges*, Texas Lawyer, Dec. 31, 2001. Copy supplied.

Dorothy N. Fowler, *TYLA Goes National*, Herald Democrat, Dec. 27, 2001. Copy supplied.

Julie D. Smith, *Attorney: Be wary of making a living trust*, The Brownwood Bulletin, Nov. 26, 2001. Copy supplied.

*Grayson County Kicks Off Junior Judges*, ABA/YLD Reporter, Nov. 2001. Copy supplied.

Holli Schaub, *Junior Judges Gives Pupils Choices*, Herald Democrat, Oct. 21, 2001. Copy supplied.

*President-Elect Candidates*, 64 Tex. B.J. 358 (2000). 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.

On July 15, 2004, I was appointed as a justice to the Fifth District Court of Appeals. On November 2, 2004, I was elected as a justice to the Fifth District Court of Appeals to an unexpired term from November 2004 to December 31, 2006. On November 7, 2006, I was re-elected as a justice to the Fifth District Court of Appeals for a full six-year term running from January 1, 2007, to December 31, 2012. The court has appellate civil and criminal jurisdiction. I resigned on April 6, 2009, to become a United States Magistrate Judge.

On April 6, 2009, I was appointed to the position of United States Magistrate Judge for the United States District Court for the Eastern District of Texas, Sherman Division, to serve an eight-year term. By agreement of the judges of the Eastern District of Texas, fifty percent of all Sherman Division cases are handled in the Sherman courthouse, with the other fifty percent being handled at the Plano courthouse. For the fifty percent assigned to Sherman, I handled all pretrial matters and motions pertaining to the civil docket from 2009 until April 2, 2014. Beginning April 2, 2014, the assignment of cases has changed, and I am now directly assigned twenty-five percent of the non-habeas civil cases as the presiding judge. The other twenty-five percent, as well as all habeas cases, are still referred to me to handle for all pretrial purposes. In addition, I have jurisdiction over civil matters by consent of the parties. On the criminal side of the docket, I handle all pleas, suppression hearings, and other motions for the fifty percent of the cases assigned to Sherman. In conjunction with Judge Don D. Bush, the magistrate judge at the Plano courthouse, I handle all initial appearances, arraignments, detention hearings, revocations of supervised release, and applications for search and seizure warrants on an every-other-month rotation.

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

My best estimate is that I have presided over 186 cases that have gone to verdict or judgment, 97% of which are civil and 3% of which are criminal. The percentages below represent the approximately 21 cases that have gone to trial; the other cases noted above were resolved via dispositive motion or settlement of the parties.

i. Of these, approximately what percent were:

jury trials:	62%
bench trials:	38%
civil proceedings:	96%
criminal proceedings:	4%

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

Please see attached lists.

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).

(1) *Amway Corp. v. bHIP Global, Inc.* No. 4:10-CV-549.

Plaintiffs asserted claims for tortious interference with contracts and/or business relations, tortious interference with prospective business relations, trade secret misappropriation, unfair competition, Texas Theft and Liability Act, conversion, and Lanham Act. The parties sold energy and sports drinks that competed against each other. Plaintiffs asserted that defendants unlawfully solicited and recruited one of plaintiffs' successful independent business owners to join bHIP and compete against plaintiffs. Plaintiffs alleged that defendants misappropriated plaintiffs' trade secrets and that bHIP misrepresented the quality of bHIP's products. I presided over a jury trial from December 4, 2012, to December 12, 2012, which resulted in a defense verdict. I denied the motion for a new trial. There was no appeal.

Plaintiffs' counsel:

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Frisco, TX 75034  
(972) 624-5338

Defendants' counsel:

Jenifer L. Grace  
The Grace Firm, PLLC  
901 Sam Rayburn Highway, Suite 100  
Melissa, TX 75454  
(972) 439-1745

Clay Alfred Hartmann  
The Hartmann Firm, PC  
6677 Gaston Avenue  
Dallas, TX 75214  
(214) 828-1822

The following are citations of significant opinions in this case:

*Amway Corp. v. bHIP Global, Inc.*, No. 4:10-CV-549, 2013 WL 2355083 (E.D. Tex. May 29, 2013) (plaintiffs' motion for new trial).

*Amway Corp. v. bHIP Global, Inc.*, No. 4:10-CV-549, 2013 WL 2355525 (E.D. Tex. May 29, 2013) (defendants' motion to amend judgment and motion to tax costs).

(2) *Dwyer v. City of Corinth*, No. 4:09cv198.

Plaintiff asserted a claim for excessive force based upon use of a Taser. Plaintiff, a sixteen-year-old boy, suffered a seizure, and struggled and resisted the paramedics' attempt to secure him to the gurney. When defendant officer arrived, he used a Taser on plaintiff in an attempt to control the situation. The Taser was applied six times, but was fired fifteen times. Prior to the first trial, I issued a report and recommendation on the motion for judgment on the pleadings, where I recommended that some claims be dismissed. No objections were filed to the report, and it was adopted on November 17, 2009, by United States District Judge Michael Schneider. I also issued a report and recommendation on the motion for summary judgment where I recommended that certain parties and claims be dismissed. After considering the objections, the district judge adopted my report. This case was first tried before a jury before the district judge, resulting in a finding of no excessive force. After the district judge granted a new trial, the parties consented, and I presided over the second trial from April 23, 2012, to April 27, 2012. The trial resulted in a finding of no excessive force in favor of defendant. There was no appeal.

Plaintiff's counsel:

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The Whitten Law Firm

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(940) 383-1618

Defendant's counsel:

William W. Krueger  
McKamie Krueger LLP  
2007 North Collins Boulevard, Suite 501  
Richardson, TX 75080  
(214) 253-2600

The following are citations of significant opinions in this case:

*Dwyer v. City of Corinth*, No. 4:09cv198, 2010 WL 3283079 (E.D. Tex. July 23, 2010), *adopted by* 2010 WL 3283076 (E.D. Tex. Aug. 19, 2012) (defendants' motions for summary judgment).

*Dwyer v. City of Corinth*, No. 4:09cv198, 2009 WL 3856989 (E.D. Tex. Nov. 17, 2009) (defendants' second Rule 12(c) motion for judgment on the pleadings).

(3) *Fatan v. Tillman*, No. 4:11cv812.

Plaintiff asserted claims for illegal entry and seizure, false arrest and imprisonment, and malicious prosecution pursuant to 42 U.S.C. § 1983. Plaintiff asserted that defendant, a police officer, entered into his home without a warrant or without probable cause and arrested plaintiff. I issued a report and recommendation that suggested defendant's motion for summary judgment be granted in part and denied in part. I recommended that plaintiff's claims for malicious prosecution be dismissed as time-barred, that plaintiff's Section 1983 claims against defendant in his official capacity be dismissed, that plaintiff's state tort claims for intentional infliction of emotional distress and false imprisonment against defendant in his individual capacity be dismissed, but that the motion be denied on all other grounds. No objections were filed to the report, and it was adopted on March 1, 2013, by United States District Judge Ron Clark. With the parties' consent, I presided over a jury trial from January 7, 2014, to January 9, 2014. The jury returned a verdict in favor of defendant, finding that there was no constitutional violation.

Plaintiff's counsel:

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(903) 892-9185



Gaylon Perry Riddels  
Gaylon P. Riddels Law Firm, PC  
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(903) 893-2878

Defendant's counsel:

D. Randall Montgomery  
D. Randall Montgomery & Associates, PLLC  
12400 Coit Road, Suite 560  
Dallas, TX 75251  
(214) 292-2602

The following are citations of significant opinions in this case:

*Fatan v. Tillman*, No. 4:11cv812, 2013 WL 789236 (E.D. Tex. Jan. 31, 2013),  
*adopted by* 2013 WL 789121 (E.D. Tex. Mar. 1, 2013) (defendant's motion for  
summary judgment).

(4) *Frito-Lay North America, Inc. v. Medallion Foods, Inc.*, No. 4:12cv74.

This case involved claims for patent infringement, trademark infringement, trade dress infringement, dilution, misappropriation of trade secrets, unfair competition, and Texas Theft Liability Act. This lawsuit was brought by Frito-Lay to enforce its intellectual property rights in its Tostitos Scoops! tortilla chips, related packaging, and processes and systems for manufacturing the chips, arising from defendants' sale and manufacture of bowl-shaped tortilla chips. Frito-Lay contended that defendants sold a bowl-shaped tortilla chip that infringed Frito-Lay's federally registered trade dress rights in the Scoops! chip shape, often in packages that were confusingly similar to Frito-Lay's Tostitos Scoops! packaging trade dress. I decided a variety of motions and issues, including a motion to transfer, motion to dismiss, motion to exclude experts, motion to compel, motions for summary judgment, and motions in limine. I also presided over a Markman hearing and issued a claim construction order. I presided over a jury trial from February 11, 2013, to March 1, 2013, which resulted in a defense verdict. While post-trial motions were pending, the case settled and was dismissed.

Plaintiff's counsel:

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Clyde Siebman  
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Defendants' counsel:

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David W. Harlan  
Armstrong Teasdale LLP  
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(314) 342-4157

The following are citations of significant opinions in this case:

*Frito-Lay North America, Inc. v. Medallion Foods, Inc.*, No. 4:12cv74, 2013 WL 101573 (E.D. Tex. Jan. 8, 2013) (Frito-Lay's motion for summary judgment on defendants' sale or public use affirmative defenses and counterclaims).

*Frito-Lay North America, Inc. v. Medallion Foods, Inc.*, No. 4:12cv74, 2013 WL 74605 (E.D. Tex. Jan. 4, 2013) (defendants' motion for summary judgment on counts 1, 2, 3, 5, 6, 9, and counterclaim 1).

*Frito-Lay North America, Inc. v. Medallion Foods, Inc.*, No. 4:12cv74, 2012 WL 4478355 (E.D. Tex. Sept. 27, 2012) (claim construction order).

*Frito-Lay North America, Inc. v. Medallion Foods, Inc.*, 867 F. Supp. 2d 859 (E.D. Tex. 2012) (defendants' motion to dismiss or, in the alternative, to transfer to the Eastern District of Arkansas).

(5) *Haberman v. PNC Mortg. Co.*, No. 4:11cv126.

Plaintiff asserted a claim under the Fair Credit Reporting Act ("FCRA"). Plaintiff contended that defendant negligently and/or willfully violated the FCRA on eight separate occasions by requesting and obtaining information from plaintiff's TransUnion credit report without having a legal, permissible purpose as required by the FCRA. This case presented a question of first impression on the liability of

a bank for account reviews in a post-bankruptcy discharge. I presided over a bench trial from August 13, 2012, to August 14, 2012. I found that there was no permissible purpose for defendant to access plaintiff's credit reports on eight separate occasions, and therefore defendant violated the FCRA. I also found that plaintiff did not suffer pain and suffering or any other actual damage as a result of the account reviews. I then found that a damage award of \$1,700 was appropriate in this matter and ordered defendant to pay \$1,700 to plaintiff in statutory damages. The \$1,700 represented \$100 for the seven account reviews and \$1,000 for the eighth account review, which occurred after defendant was sued in this case. I found that defendant's conduct did not entitle plaintiff to an award of punitive damages pursuant to 15 U.S.C. § 1681n(a)(2), but that plaintiff was entitled to an award of attorney's fees and costs. The case was not appealed.

Plaintiff's counsel:

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Law Office of Sylvia A. Goldsmith  
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Defendant's counsel:

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Vorys, Sater, Seymour and Pease LLP  
700 Louisiana Street, Suite 4100  
Houston, TX 77002  
(713) 588-7018

The following are citations of significant opinions in this case:

*Haberman v. PNC Mortg. Co.*, 915 F. Supp. 2d 800 (E.D. Tex. 2013) (plaintiff's motion for attorneys' fees and costs).

*Haberman v. PNC Mortg. Co.*, No. 4:11cv126, 2012 WL 2921357 (E.D. Tex. July 17, 2012) (defendant's motion for summary judgment).

*Haberman v. PNC Mortg. Co.*, No. 4:11cv126, No. 77 (findings of fact and conclusions of law). Copy supplied.

(6) *Hendricks v. Ford Motor Co.*, No. 4:12cv71.

This was a product liability action. A scissor jack on a van sold and marketed by defendant failed and collapsed, and the decedent's van fell and crushed him to death in his garage. This was a test case by Ford on the failure of the scissor jack. The case involved testimony from the family members, as well as expert

testimony. I decided a variety of motions and issues, including a motion to exclude evidence of marijuana use, a motion to admit evidence of other accidents, a motion to exclude survey, a motion to exclude expert testimony, a motion for summary judgment on manufacturing accident, and motions in limine. I presided over a jury trial from October 22, 2012, to November 1, 2012, which resulted in a defense verdict. There was no appeal.

Plaintiffs' counsel:

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Defendant's counsel:

William L. Mennucci  
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Ronald D. Wamsted  
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(512) 708-8200

The following are citations of significant opinions in this case:

*Hendricks v. Ford Motor Co.*, No. 4:12cv71, 2012 WL 7958760 (E.D. Tex. Oct. 15, 2012) (defendant's opposed motion to exclude, or alternatively, motion in limine).

*Hendricks v. Ford Motor Co.*, No. 4:12cv71, 2012 WL 4478308 (E.D. Tex. Sept. 27, 2012) (plaintiff's motion to admit evidence of other accidents from same or similar cause).

*Hendricks v. Ford Motor Co.*, No. 4:12cv71, 2012 WL 7958730 (E.D. Tex. Sept. 24, 2012) (defendant's motion for partial summary judgment).

*Hendricks v. Ford Motor Co.*, No. 4:12cv71, 2012 WL 7956426 (E.D. Tex. Aug. 24, 2012) (defendant's motion for partial summary judgment).

(7) *Kazmi v. BAC Home Loans Servicing, L.P.*, No. 4:11cv375.

The case is one example of the diverse kinds of cases handled in the Sherman Division. The division has a large number of mortgage-related cases, and this case illustrates the issues that the court routinely addresses in handling these

cases. Plaintiffs raised legal challenges to the foreclosure proceedings, including causes of action for breach of contract and anticipatory breach of contract, violations of the Texas Debt Collections Act, breach of the common law tort of unreasonable collection efforts, and negligence and gross negligence. Plaintiffs' claims were based on the contention that the bank did not have standing to foreclose. The bank asserted that under Texas law, the right to foreclose was transferred to it. I issued a report and recommendation where I addressed these issues, recommending that the motion to dismiss for lack of subject matter jurisdiction and motion for summary judgment be granted. The report was adopted. The dismissal of the case was affirmed on appeal.

Plaintiffs' counsel:

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Defendants' counsel:

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The following are citations of significant opinions in this case:

*Kazmi v. BAC Home Loans Servicing, L.P.*, No. 4:11cv375, 2012 WL 629440 (E.D. Tex. Feb. 3, 2012), *adopted by* 2012 WL 629433 (E.D. Tex. Feb. 27, 2012), *reconsideration denied by* 2012 WL 1899556 (E.D. Tex. May 24, 2012), *aff'd* 517 F. App'x 228 (5th Cir. 2013) (defendants' motion to dismiss for lack of subject matter jurisdiction and motion for summary judgment).

(8) *Little v. Technical Specialty Products, LLC*, No. 4:11cv717.

Plaintiff had filed suit against defendants for alleged violations of the Fair Labor Standards Act ("FLSA"). Plaintiff asserted that defendants violated the FLSA by failing to pay overtime pay rates for hours worked in excess of 40 hours in a work week, and that defendants discharged plaintiff in retaliation for making an oral complaint about the new overtime policy implemented by defendants. At the summary judgment stage, I dismissed plaintiff's FLSA claim for overtime compensation, but found that plaintiff's claim for retaliatory discharge should proceed to trial. I also found that plaintiff could recover compensatory damages

under the FLSA, but no punitive damages would be available to plaintiff. I presided over the jury trial from April 29, 2013, to May 2, 2013, which resulted in a verdict for plaintiff. Based upon the jury verdict, I entered judgment in favor of plaintiff in the amount of \$210,732. An appeal was filed, but it was dismissed on December 30, 2013, for failure to prosecute.

Plaintiff's counsel:

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Jason Edward Winford  
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Defendants' counsel:

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(214) 905-2003

The following are citations of significant opinions in this case:

*Little v. Technical Specialty Products, LLC*, No. 4:11cv717, 2012 WL 695719 (E.D. Tex. Feb. 8, 2012), *adopted by* 2012 WL 695717 (E.D. Tex. Mar. 1, 2012) (report and recommendation addressing defendants' motion to compel arbitration and stay proceedings pending arbitration).

*Little v. Technical Specialty Products, LLC*, 940 F. Supp. 2d 460 (E.D. Tex. 2013) (defendants' motion for complete, or in the alternative, partial summary judgment, plaintiff's motion for partial summary judgment, and defendants' objection and conformed, amended motion to strike plaintiff's experts Brian Farrington and Scott Barnes).

*Little v. Technical Specialty Products LLC*, No. 4:11cv717, 2013 WL 5755363 (E.D. Tex. Oct. 23, 2013) (order addressing the issue of liquidated damages and front pay).

*Little v. Technical Specialty Products LLC*, No. 4:11cv717, 2013 WL 5755333 (E.D. Tex. Oct. 23, 2013) (defendants' motion for judgment as a matter of law).

*Little v. Technical Specialty Products LLC*, No. 4:11cv717, 2014 WL 1116895 (E.D. Tex. Mar. 18, 2014) (defendants' motion for new trial).

(9) *Moree v. City of Sherman*, No. 4:11cv11.

Plaintiff asserted that she had been terminated because of age and gender discrimination claims. Defendant argued that plaintiff was terminated from her employment with defendant City of Sherman, Texas, for untruthfulness and conduct unbecoming after working for the City for twenty-seven years. I issued a report and recommendation on the motion to dismiss where I recommended that the motion be denied. Objections were filed, and my report was adopted by United States District Judge Michael Schneider. After the parties consented, I issued an order denying the motion for summary judgment. I presided over a jury trial from April 10, 2012, to April 11, 2012. The jury entered a verdict for plaintiff on the gender discrimination claim but rejected the age discrimination claim. I denied the post-trial motions, and the case settled while pending appeal.

Plaintiff's counsel:

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Defendant's counsel:

Darrell Gerard-Marc Noga  
Cantey Hanger LLP  
Harwood Center  
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(214) 978-4120

The following are citations of significant opinions in this case:

*Moree v. City of Sherman*, No. 4:11cv11, 2012 WL 947296 (E.D. Tex. Mar. 20, 2012) (defendant's motion for summary judgment).

*Moree v. City of Sherman*, No. 4:11cv11, 2011 WL 1564035 (E.D. Tex. Apr. 6, 2011), *adopted by* 2011 WL 1564028 (E.D. Tex. Apr. 26, 2011) (defendant's Rule 12(b)(1) or, alternatively, 12(b)(6) motion to dismiss).

(10) *Oasis Research, LLC v. Adrive, LLC*, Nos. 4:10cv435, 4:12cv525, 4:12cv526.

Plaintiff filed this pre-America Invents Act (“AIA”) patent infringement lawsuit alleging that the defendants infringed four United States patents relating to online backup and storage. Defendants in this case were competitors who offered commercial online backup/storage services to their customers. Prior to consent of the parties, I recommended denial of severance of this case. Objections were filed, and my report was adopted by United States District Judge Michael Schneider. Defendants filed a mandamus with the United States Appeals Court for the Federal Circuit, and the Federal Circuit adopted a new test for severance, in pre-AIA cases, granted the petition, and directed the court to reconsider the motions in light of the new test. All parties consented, and, upon reconsideration, I granted severance, but denied the motions to transfer venue. Defendants again sought a mandamus from the Federal Circuit on the denial of the transfer of venue, but the mandamus was denied. I presided over a jury trial from March 14, 2013, to March 22, 2013, on the invalidity claim for failure to name co-inventors, resulting in a verdict for defendants. A motion for judgment as a matter of law is pending. Plaintiff’s motion asserts that Jack Byrd is not a co-inventor of the patents-in-suit, and that the patents-in-suit are therefore not invalid.

Plaintiff’s counsel:

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EMC Corp. and Decho Corp.’s counsel:

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The following attorneys appeared for parties that settled prior to trial:

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Haynes and Boone  
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(214) 651-5684

AT&T Corp.:  
Clyde Siebman  
Siebman Reynolds Burg & Phillips LLP  
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GoDaddy.com, Inc.:  
Harry Lee Gillam, Jr.  
Gillam & Smith, LLP  
303 South Washington Avenue  
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Iron Mountain Defendants:  
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Nirvanix, Inc.:  
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The following are citations of significant opinions in this case:

*Oasis Research, LLC v. Carbonite, Inc.*, No. 4:12-CV-525, 2012 WL 3600680 (E.D. Tex. Aug. 21, 2012) (defendant Carbonite, Inc.'s motion to sever the claims against Carbonite for misjoinder and transfer those claims to the United States District Court for the District of Massachusetts).

*Oasis Research, LLC v. EMC Corp.*, No. 4:12-CV-526, 2012 WL 3600789 (E.D. Tex. Aug. 21, 2012) (defendants EMC Corp., Decho Corp, and Iomega Corp.'s motion to dismiss for misjoinder or, in the alternative, to sever and transfer claims to the United States District Court for the District of Utah).

*Oasis Research, LLC v. GoDaddy.com, Inc.*, No. 4:12-CV-528, 2012 WL 3600795 (E.D. Tex. Aug. 21, 2012) (defendant GoDaddy.com, Inc.'s motion for

transfer of venue to the District of Arizona, or in the alternative, for dismissal of claims against Go Daddy for lack of jurisdiction and improper venue).

*Oasis Research, LLC v. Iron Mountain, Inc.*, No. 4:12-CV-529, 2012 WL 3600816 (E.D. Tex. Aug. 21, 2012) (Iron Mountain Incorporated and Iron Mountain Information Management Inc.'s motion to dismiss for misjoinder or, in the alternative, to sever and transfer claims to the United States District Court for the District of Massachusetts).

*Oasis Research, LLC v. Pro Softnet Corp.*, No. 4:12-CV-531, 2012 WL 3600838 (E.D. Tex. Aug. 21, 2012) (defendant Pro Softnet Corporation's motion to sever and transfer claims against Pro Softnet to the United States District Court for the Central District of California, or in the alternative, to dismiss).

*Oasis Research, LLC v. Carbonite, Inc.*, No. 4:10-CV-435, 2012 WL 3544881 (E.D. Tex. Aug. 15, 2012) (defendants' motions to sever and consolidation order).

*Oasis Research, LLC v. AT&T Corp.*, No. 4:10-CV-435, 2012 WL 602199 (E.D. Tex. Feb. 23, 2012) (claim construction order).

*Oasis Research, LLC v. AT&T Corp.*, No. 4:10-CV-435, 2012 WL 602202 (E.D. Tex. Feb. 23, 2012) (defendants' motion for partial summary judgment of indefiniteness of claim 1 of U.S. Patent No. 5,771,354, and its asserted dependent claims).

*Oasis Research, LLC v. Adrive, LLC*, No. 4:10-CV-435, 2011 WL 7272473 (E.D. Tex. Sept. 13, 2011) (plaintiff's motion to compel non-infringement contentions from defendants and defendants' amended motion to limit number of asserted patent claims).

*Oasis Research, LLC v. Adrive, LLC*, No. 4:10-CV-435, 2011 WL 3099885 (E.D. Tex. May 23, 2011) (defendants' motions to sever and transfer).

- 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.

- (1) *Colbert v. City of McKinney*, No. 4:12-cv-612, No. 68 (E.D. Tex. Dec. 3, 2013). Copy supplied.

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- (2) *Fatan v. Tillman*, No. 4:11-cv-812, 2013 WL 789236 (E.D. Tex. Jan. 31, 2013).

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- (3) *Frito-Lay North America, Inc. v. Medallion Foods, Inc.*, 867 F. Supp. 2d 859 (E.D. Tex. 2012).

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- (4) *Imperium (IP) Holdings, Inc. v. Apple Inc.*, 920 F. Supp. 2d 747 (E.D. Tex. 2013).

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- (5) *Little v. Technical Specialty Products, LLC*, 940 F. Supp. 2d 460 (E.D. Tex. 2013).

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- (6) *Net Navigation, LLC v. Cisco Systems, Inc.*, Nos. 4:11-cv-660, 4:11-cv-662, 2012 WL 6161931 (E.D. Tex. Dec. 11, 2012).

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(7) *SEC v. Shavers*, No. 4:13-cv-416, 2013 WL 4028182 (E.D. Tex. Aug. 6, 2013).

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- (8) *Sgroe v. Wells Fargo Bank, N.A.*, 941 F. Supp. 2d 731 (E.D. Tex. 2013).

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- (9) *United States v. Morales-Rosales*, 698 F. Supp. 2d 716 (E.D. Tex. 2010).

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- (10) *VocalSpace, LLC v. Lorenzo, et. al.*, No. 4:09-cv-350, 2011 WL 839667 (E.D. Tex. Mar. 7, 2009).

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

I know of no cases in which certiorari was granted. Certiorari was denied in the following cases:

*Winegarner v. City of Lewisville, TX*, No. 4:11-cv-854, No. 3 (E.D. Tex. Dec. 30, 2011), *dismissed by* No. 12-40236, No. 66 (5th Cir. Nov. 25, 2013), *cert. denied* No. 13-8959, 2014 WL 859742 (May 19, 2014).

*Kercher v. United States*, No. 4:07-cv-310, 2012 WL 874325 (E.D. Tex. Mar. 14, 2012), *aff'd* 539 F. App'x 517 (5th Cir. 2013), *cert. denied* 134 S.Ct. 1776 (2014).

*Nyamharo v. United States*, No. 4:11cv260 (E.D. Tex. June 15, 2011), *aff'd* 514 F. App'x 479 (5th Cir. 2013), *cert. denied* 134 S.Ct. 492 (2013).

*Priester v. JP Morgan Chase Bank, N.A.*, No. 4:10-CV-641, 2011 WL 6116491 (E.D. Tex. Oct. 13, 2011), *adopted by* 2011 WL 6116481 (E.D. Tex. Dec. 8, 2011), *aff'd* 708 F.3d 667 (5th Cir. 2013), *cert. denied* 134 S.Ct. 196 (2013).

*Clarke v. Director, TDCJ-CID*, No. 4:08cv381, 2009 WL 1910682 (E.D. Tex. June 30, 2009), *vacated in part by Clarke v. Thaler*, 415 F. App'x 529 (5th Cir. Feb. 2, 2011), *cert. denied* 132 S.Ct. 385 (2011), *on remand to*, 2012 WL 4061231 (E.D. Tex. Aug. 8, 2012), *adopted by* 2012 WL 4061228 (E.D. Tex. Sept. 13, 2012).

*Pratt v. State*, Nos. 05-07-00538-CR, 05-07-00539-CR, 2008 WL 921495 (Tex. App – Dallas, pet. ref'd), cert. denied 556 U.S. 1108 (2009).

*Henson v. Southwest Airlines Company*, 180 S.W.3d 841 (Tex. App. – Dallas, 2005, pet. denied), cert. denied 549 U.S. 914 (2006).

Certiorari was dismissed in the following case:

*Dolenz v. Dallas Cent. Appraisal Dist.*, 259 S.W.3d 331 (Tex. App. – Dallas, 2008, pet. denied), cert. dismissed 556 U.S. 1151 (2009).

- 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.

United States Magistrate Judge:

To the best of my knowledge, only two final orders of mine have been appealed to the United States Court of Appeals for the Fifth Circuit and been reversed or reversed in part:

*Fidelity Nat'l Title Ins. Co. v. Doubletree Partners, L.P.*, 866 F. Supp. 2d 604 (E.D. Tex. 2011), *aff'd in part, rev'd in part and remanded by Lawyers Title Ins. Corp. v. Doubletree Partners, L.P.*, No. 12-40692, 12-40702, 2014 WL 127131 (5th Cir. Jan. 14, 2014); *Fidelity Nat. Title Ins. Co. v. Doubletree Partners, L.P.*, No. 4:08cv243, 2012 WL 1867080 (E.D. Tex. May 22, 2012), *rev'd in part* by 2014 WL 127131 (5th Cir. Jan. 14, 2014). Doubletree Partners paid \$3.45 million for land to build "a luxury retirement community for seniors." In connection with the purchase, it bought title insurance from Lawyers Title, which required a survey. The survey disclosed a flowage easement, but the surveyor "substantially underrepresented the area of the property that was subject to the flowage easement." Doubletree discovered the error only after Lawyers Title issued the policy, the sale closed, and Doubletree was in the course of development. I found that the insurance policy should be reformed due to mutual mistake. The Fifth Circuit affirmed the decision to apply the corrected policy (finding Lawyers Title's original issuance of the policy, without the extra coverage or flowage easement exclusion, was a mutual mistake), but the court reversed my interpretation of policy. The Fifth Circuit also affirmed me on the rejection of the extra contractual claims, but reversed my award of attorneys' fees. The Fifth Circuit also remanded for consideration of additional issues.

*River Capital Advisors of North Carolina, Inc. v. FCS Advisors, Inc.*, No. 4:10cv471 (E.D. Tex. Jan. 8, 2013) (copy supplied), *rev'd* No. 13-40196,

2014 WL 60169 (5th Cir. Jan. 8, 2014). Plaintiff brought this action against two banks, asserting that defendants worked in concert to cause a third party to default on its obligation to pay plaintiff a success fee of over \$3.2 million. Plaintiff asserted claims of negligent misrepresentation and tortious interference with contract. I presided over a bench trial held from August 27, 2012, to August 28, 2012, which resulted in a verdict for plaintiff. Plaintiff failed on its negligent misrepresentation claim, but succeeded on the tortious interference claim. Plaintiff was awarded the success fee. On appeal the case was reversed in an unpublished decision on the justification defense.

Conservatively, I have issued over 1,450 reports and recommendations in civil cases. For my reports and recommendations that were adopted by the district court and then appealed to the Fifth Circuit or the United States Court of Appeals for the Federal Circuit, I am aware of only seven cases where I was reversed or reversed in part.

*Jabary v. City of Allen*, No. 4:10cv711, 2012 WL 3685962 (E.D. Tex. July 11, 2012), *aff'd in part, rev'd in part and remanded* by No. 12-41054 (5th Cir. Nov. 25, 2013) (copy supplied). I recommended that defendants Smith, Terrell, Bass, Felty, Vargas, McCullough, Rushing and John Does 1-5 be dismissed on a Rule 12(b)(6) motion. The Fifth Circuit reversed and remanded on the procedural due process claim as to defendants McCullough and Terrell, but affirmed the dismissal of these claims against the remaining defendants.

*Bucknell v. Director, TDCJ-CID*, No. 4:10cv216, No. 4 (E.D. Tex. May 4, 2010) (copy supplied), *adopted by* No. 8 (E.D. Tex. Mar. 15, 2011) (copy supplied), *remanded by* *Bucknell v. Thaler*, 488 F. App'x 851 (5th Cir. 2012). I prepared a report that recommended that the case be dismissed without prejudice because the petitioner had not exhausted his state court remedies. While the report was pending before the district judge, the petitioner exhausted his remedies, which resulted in the remand by the Fifth Circuit to consider the merits of the case.

*Harris v. Devon Energy Production Co.*, No. 4:10cv708, 2011 WL 7092649 (E.D. Tex. Dec. 29, 2011), *adopted by* 2012 WL 220212 (E.D. Tex. May 17, 2012), *affirmed as modified by* 500 F. App'x 267 (5th Cir. 2012). I recommended that plaintiffs' motion to voluntarily dismiss this case be granted without prejudice. The district judge adopted these findings. On appeal, the Fifth Circuit decision affirmed the dismissal, but modified so as to dismiss the case with prejudice.

*Dawes v. United States*, No. 4:07cv528, No. 17 (E.D. Tex. Feb. 7, 2011) (copy supplied), *adopted by* No. 19 (E.D. Tex. Feb. 28, 2011) (copy supplied), *remanded by* 480 F. App'x 788 (5th Cir. 2012). I prepared a report that recommended dismissal of the petition, which the district judge adopted. The

Fifth Circuit remanded for an evidentiary hearing in light of the Supreme Court's intervening decision in *Lafler v. Cooper*, 132 S. Ct. 1376 (2012), and the government's request that the case be remanded. After remand, I conducted an evidentiary hearing.

*Oasis Research, LLC v. Adrive, LLC*, No. 4:10cv435, 2011 WL 3099885 (E.D. Tex. May 23, 2011), *adopted by* 2011 WL 3103972 (E.D. Tex. July 25, 2011). Prior to consent of the parties, I recommended denial of severance of this case. The district judge adopted these findings. Defendants filed a mandamus with the Federal Circuit. In addressing this matter of first impression, the Federal Circuit held that mandamus can be an appropriate means to test a district court's discretion in ruling on motions to sever and transfer in patent infringement actions. *In re EMC Corp.*, 677 F.3d 1351 (Fed. Cir. 2012). The Federal Circuit also adopted a new test for severance, in pre-America Invents Act cases, and granted the petition and directed the court to reconsider the motions in light of the new test. At this point the parties had consented and, upon reconsideration, I granted severance, but denied the motions to transfer venue. Defendants again sought a mandamus from the Federal Circuit, but the mandamus was denied in *In re EMC Corp.*, 501 F. App'x 973 (Fed. Cir. 2013).

*Clarke v. Director, TDCJ-CID*, No. 4:08cv381, 2009 WL 1910682 (E.D. Tex., June 30, 2009), *vacated in part by Clarke v. Thaler*, 415 F. App'x 529 (5th Cir. Feb. 2, 2011), *cert. denied* 132 S.Ct. 385 (2011), *on remand to* 2012 WL 4061231 (E.D. Tex. Aug. 8, 2012), *adopted by* 2012 WL 4061228 (E.D. Tex. Sept. 13, 2012). In this habeas corpus case, I recommended that the petition be denied, explaining the complained-of charges did not violate the Ex Post Facto Clause. The petitioner filed objections, which were overruled by the district judge. On appeal, the Fifth Circuit vacated the dismissal of the petition, in part, and remanded the case for further consideration to address the claims that the Ex Post Facto Clause was violated by requiring sex offenders to complete a sexual offender treatment program before being released on parole, by keeping violent offenders in prison longer to receive federal funds under the Truth-in-Sentencing Act, and by the state's passing of laws that make it tougher for violent offenders to be released on parole. Upon remand, I considered these additional issues and recommended that the present petition for a writ of habeas corpus lacked merit and should be dismissed with prejudice. Petitioner's objections were overruled by the district judge.

*Funk v. Thaler*, Nos. 4:09cv510, 4:09cv543, No. 8 (E.D. Tex. Nov. 2, 2009) (copy supplied), *adopted by* No. 13 (E.D. Tex. Dec. 14, 2009) (copy supplied), *remanded by* 390 F. App'x 409 (5th Cir. 2010). I prepared a report that recommended dismissal of the petition as time-barred. The district judge adopted my findings. On appeal, the Fifth Circuit vacated the decision and remanded the case for a determination whether the statute of limitations was

tolled due to a state-created impediment of a lack of access to a library. Upon remand, I found that petitioner had access to an adequate law library.

Every report and recommendation is subject to review by the district court, and my recommendations have been adopted in approximately 99% of those cases. The following reports and recommendations were adopted only in part:

*Duarte v. The City of Lewisville*, 4:12-cv-00169, No. 18 (E.D. Tex. Aug. 14, 2012) (copy supplied), *adopted in part*, No. 4:12cv169 (E.D. Tex. Oct. 23, 2012) (copy supplied). Plaintiff Aurelio Duarte asserted civil rights violations under 42 U.S.C. § 1983 for damages and 28 U.S.C. § 2201 for declaratory relief involving the Due Process and Equal Protection Clauses of the Fourteenth Amendment, the Double Jeopardy Clause of the Fifth Amendment, and the Ex Post Facto Clause of the United States Constitution. Plaintiffs Wynjean Duarte, Savana Duarte, and Brandi Duarte asserted procedural and substantive due process claims against the City of Lewisville. Plaintiffs alleged that the ordinance entitled “Regulation of Child Predator Offender Residency” enacted by defendant was unconstitutional. In a report and recommendation, I concluded that defendant’s Fed. R. Civ. P. 12(b)(6) motion be granted and plaintiffs’ case dismissed. The district judge agreed to the dismissal of all plaintiffs, with the exception of Aurelio Duarte. I later recommended that defendant’s motion for summary judgment be granted, which was adopted by the district court. *See Duarte v. City of Lewisville*, No. 4:12-cv169, 2013 WL 3367292 (E.D. Tex. July 3, 2013).

*Stewart v. L.A. Fitness Int’l, L.L.C.*, No. 4:12cv100, 2013 WL 866472 (E.D. Tex. Jan 4, 2013), *adopted in part* by 2013 WL 866483 (E.D. Tex. Mar. 7, 2013). The district judge adopted my recommendation that plaintiff’s claims for retaliation under Title VII and for intentional infliction of emotional distress under Texas law be dismissed. The district judge also adopted my recommendation that plaintiff’s hostile work environment claim should go to trial, but the district judge provided additional clarification on the applicable burden of proof in a Title VII hostile work environment case where a supervisor in the employee’s chain of command, as opposed to a co-worker, is accused of sexual harassment.

*Imperium (IP) Holdings, Inc. v. Apple Inc.*, No. 4:11-cv-163, 2012 WL 6949611 (E.D. Tex. July 2, 2012), *adopted as modified* by 2013 WL 322053 (E.D. Tex. Jan. 28, 2013). I presided over a claim construction hearing addressing claim construction of patents relating to digital cameras and camcorders and the sensor arrays used therein. The district judge adopted all of my findings subject to the modification of the construction of the “[green/red] zone system” terms construed in Section B.2 of my report and recommendation.

*Williams v. Astrue*, No. 4:09-cv-170, 2010 WL 2991158 (E.D. Tex. Jun 23, 2010), *adopted in part by* 2010 WL 2991160 (E.D. Tex. Jul 27, 2010). In this Social Security disability appeal, I recommended that the commissioner's decision be affirmed. The district judge sustained the first objection that the magistrate judge erred in concluding the administrative law judge properly evaluated plaintiff's somatization disorder at steps two, three, and in the residual functional capacity assessments and remanded the case for further review on the issue of plaintiff's somatization disorder.

For the criminal docket, I have issued over 100 reports and recommendations on dispositive criminal motions, over 150 reports and recommendations on supervised release revocations, and over 200 detention orders. My only criminal order to be reversed was in the following case:

*United States v. Perkins*, No. 4:09-cr-76, No. 34 (E.D. Tex. May 27, 2009) (copy supplied), *stay granted by* No. 38 (E.D. Tex. May 28, 2009) (copy supplied), *reversed by* No. 46 (E.D. Tex. June 5, 2009) (copy supplied). After I determined the United States failed to meet its burden, I granted a bond for the defendant. The government appealed and presented new evidence to the district judge, resulting in a reversal of my decision and denial of the bond.

Court of Appeals Justice:

I had the following three reversals as a justice on the court of appeals:

*Signature Mgmt. Team, LLC v. Quixtar, Inc.*, 281 S.W.3d 666 (Tex. App. – Dallas 2010), *rev'd*, 315 S.W.3d 28 (Tex. 2010). Writing for the appellate court, I found that Michigan was an available and adequate forum, but Quixtar, Inc. failed to show that private interest and public interest factors strongly favored dismissal for forum non conveniens. The Texas Supreme Court reversed, finding that Quixtar's burden of proof for forum non conveniens was less stringent than if Team was a Texas resident, and Quixtar presented sufficient evidence for trial court to determine that private interest factors weighed in favor of dismissal.

*Crities v. Collins*, 215 S.W.3d 924 (Tex. App. – Dallas 2007), *rev'd*, 284 S.W.3d 839 (Tex. 2009). Writing for the appellate court, I held that the physician was not entitled to dismissal with prejudice or attorney fees and costs because she filed motion after action was nonsuited. The Texas Supreme Court held that physician was not precluded from moving for sanctions even though the patient had previously nonsuited action.

*City of Mesquite v. PKG Contracting, Inc.*, 148 S.W.3d 209 (Tex. App–Dallas 2004, *rev'd*, 197 S.W.3d 388 (Tex. 2006) (per curiam). In this governmental immunity case, the Texas Supreme Court agreed with the court's opinion, but reversed and remanded to the trial court for plaintiff to have the opportunity to



plead a cause of action under sections 271.151 and 271.160 of the Tex. Local Gov't Code, which had been enacted by the Legislature while this case was on appeal.

Two of my opinions where I was an authoring justice were later disapproved in part by the Texas Supreme Court:

*Federal Ins. Co. v. Ruiz*, 281 S.W.3d 177 (Tex. App.–Dallas 2009, no pet.), disapproved by *State Office of Risk Mgmt. v. Lawton*, 295 S.W.3d 646, 650 (Tex. 2009). Claimant brought workers' compensation claim. The hearing officer concluded that employer's workers' compensation insurer did not waive its right to contest compensability of bilateral carpal tunnel syndrome, and claimant appealed. The administrative appeals panel ruled that the insurer waived the right to contest compensability of bilateral carpal tunnel syndrome, and the insurer appealed. The 298th District Court denied insurer's motion for summary judgment, and insurer appealed. On appeal, as the authoring justice, my opinion held that insurer waived its right to contest compensability of claimant's bilateral carpal tunnel syndrome. No appeal was requested. In a later opinion, the Texas Supreme Court expressed disapproval of the court's prior decision.

*Beach v. Beach*, No. 05-05-01316-CV, 2007 WL 1765250 (Tex. App.–Dallas June 20, 2007, no pet.), disapproved of by *Iloff v. Iloff*, 339 S.W.3d 74 (Tex. 2011). Writing for the appellate court, I concluded that the evidence did not show the trial court abused its discretion in finding appellant was underemployed and ordering appellant to pay \$500 per month as child support, overruling appellant's fifteenth point of error. No appeal was requested. In a later opinion, the Texas Supreme Court expressed disapproval of the court's prior decision. The Texas Supreme Court disapproved of twelve courts of appeals, finding that the Texas Family Code section 154.066 contains no requirement of proof that an obligor be intentionally unemployed or underemployed for the purposes of avoiding child support.

- 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.

As a magistrate judge, only nine of my opinions – representing 1% of my decisions – have been published. However, all of my orders and opinions are filed and stored at CM/ECF, aka PACER, the federal courts' electronic case management system. In addition, many of my decisions are available on Westlaw or Lexis.

As a state appellate judge, almost all of my civil opinions are published and some of my criminal opinions are published in a reporter or in Westlaw or Lexis. All of my opinions whether published or unpublished are also available from the Fifth

District Court of Appeals website at [www.5thcoa.courts.state.tx.us](http://www.5thcoa.courts.state.tx.us), searchable by citation and by case name.

- 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.

*Colbert v. City of McKinney*, No. 4:12-cv-612, No. 68 (E.D. Tex. Dec. 3, 2013) (copy supplied in response to Q.13d); *Colbert v. City of McKinney*, No. 4:12-cv-612, 2013 WL 3368237 (E.D. Tex. July 3, 2013).

*United States v. Shkambi*, No. 4:09-cr-193-5, 2013 WL 5609360 (E.D. Tex. Oct. 11, 2013); *United States v. Shkambi*, No. 4:09-cr-193-5, 2013 WL 5585466 (E.D. Tex. Oct. 10, 2013); *United States v. Shkambi*, No. 4:09-cr-193-5, 2013 WL 4511288 (E.D. Tex. Aug. 22, 2013).

*United States v. Nguyen*, No. 4:13-cr-48, 2013 WL 5488719 (E.D. Tex. Oct. 2, 2013).

*Waterman v. McKinney Independent School District*, No. 4:13-cv-170, 2014 WL 2611185 (E.D. Tex. June 11, 2014); *Waterman v. McKinney Independent School District*, No. 4:13-cv-170, 2013 WL 5718546 (E.D. Tex. Oct. 21, 2013).

*Duarte v. City of Lewisville*, No. 4:12-cv-169, 2013 WL 3367292 (E.D. Tex. July 3, 2013), *Duarte v. City of Lewisville*, No. 4:12-cv-169, No. 18 (E.D. Tex. Aug. 14, 2012) (copy supplied in response to Q.13f), *adopted in part* by No. 20 (E.D. Tex. Oct. 23, 2012) (copy supplied in response to Q.13f).

*Fatan v. Tillman*, No. 4:11-cv-812, 2013 WL 789236 (E.D. Tex. Jan. 31, 2013), *adopted by* 2013 WL 789121 (E.D. Tex. Mar. 1, 2013); *Fatan v. Tillman*, No. 4:11-cv-812, 2012 WL 695804 (E.D. Tex. Feb. 3, 2012), *adopted by* 2012 WL 695801 (E.D. Tex. Mar. 1, 2012).

*Jabary v. City of Allen*, No. 4:10-cv-711, 2012 WL 669915 (E.D. Tex. Jan. 27, 2012), *adopted by* 2012 WL 669761 (E.D. Tex. Feb. 29, 2012), *aff'd in part, rev'd in part* by 547 F. App'x 600 (5th Cir. 2013).

*United States v. Aponte*, No. 4:11-cr-249, 2012 WL 3043069 (E.D. Tex. July 5, 2012), *adopted by* 2012 WL 3044278 (E.D. Tex. July 25, 2012).

*Estate of Lance ex rel., Lance v. Lewisville Indep. Sch. Dist.*, No. 4:11-cv-32, No. 122 (E.D. Tex. May 11, 2012) (copy supplied), *adopted by* 2012 WL 5384200 (E.D. Tex. Sept. 11, 2012), *aff'd* by 743 F.3d 982 (5th Cir. Feb. 28, 2014); *Estate of Lance ex rel., Lance v. Lewisville Indep. Sch. Dist.*, No. 4:11-cv-32, 2011 WL 4100960 (E.D. Tex. Aug. 23, 2011), *adopted by* 2011 WL 4101164 (E.D. Tex. Sept. 13, 2011).

*Dwyer v. Tyson*, No. 4:08-cv-198, 2010 WL 3283079 (E.D. Tex. July 23, 2010),  
*adopted by* 2010 WL 3283076 (E.D. Tex. Aug. 19, 2010).

- 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 sat by designation on any federal appellate court.

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.

As a United States Magistrate Judge, I follow the federal recusal statutes and Code of Conduct for United States Judges. Whether called for by the Code of Conduct for United States Judges, the recusal statutes, or my general interest in maintaining impartiality and the appearance of impartiality of the court, I disclose the potential conflict and/or recuse myself.

I evaluate each case when referred to me. I also review cases as they proceed, examining the list of counsel and parties to determine if an association appears which is not listed in our conflict database or if there is some other reason why I should consider recusal. I have also started utilizing the court's automated recusal system, and I have notified the staff attorneys to screen habeas corpus cases to see if any petition was filed in a case on which I sat as the appellate judge for the case. I recuse myself on any case where I served as the appellate judge for the criminal case which is the subject matter of the habeas petition. I have been asked to recuse myself in several pro se cases which were denied by me or the United States District Judge assigned to the case. I have not kept a record of these civil cases. In the following

cases, I recused as a U.S. Magistrate Judge due to personal, family relationships or from previous knowledge:

*Stanford v. Social Security Commissioner*, No. 4:08cv312 and *Stanford v. Social Security Commissioner*, No. 4:11cv106. The main issue in these cases was the findings of a local doctor. The doctor's wife had painted a portrait of me and presented it as a gift in honor of my investiture as a United States Magistrate Judge.

*Sethi v. Director*, No. 4:07cv163; *Busby v. Director*, No. 4:07cv342; and *Joseph v. Director*, No. 4:12cv129. In these habeas corpus cases, I served as a justice on their criminal appeals while I was at the court of appeals.

*Brody v. Social Security Commissioner*, No. 4:09cv137. Mr. Brody was involved in my prior race for state district judge.

*United States of America v. Renda*, No. 4:09cv368. While in private practice, I represented an individual who was sued by Mr. Renda.

*Hamaker v. Chase Manhattan Corporation*, No. 4:12cv773. Plaintiff filed a motion to recuse, pointing out that he had been a primary opponent to the Hon. Robert Faulkner. I had been a career law clerk to Judge Faulkner. Although I was aware that Judge Faulkner had lost a primary race in Arkansas many years before, I was unaware that plaintiff was that opponent until the motion to recuse was filed.

*Nguyen v. Ridling*, No. 4:11cv00151. In this civil rights action, I served as justice on the criminal appeal while I was at the court of appeals, involving the same subject matter. I initiated the recusal after I realized that I had previously served as a justice on the state case.

There have also been cases where the district judge signed an order of recusal, which resulted in my removal from the case when the case was reassigned. When the district judge recused, my referral ended in the following cases:

*Flanary v. Mortgage Electronic Registration System, Inc.*, 4:12-cv-293 (E.D. Tex.)

*Weisbart v. Bullock*, 4:13-cv-404 (E.D. Tex.)

As a state judge, I followed the recusal requirements of state law. My practice was to review the file of any case before me upon receiving the briefs. If there was a reason to recuse, I would recuse sua sponte. In state court, I recused myself from the following cases:

*Karlseng v. H. Jonathan Cooke*, No. 05-08-00380-CV. The key issue in this case involved my former employer, Judge Robert Faulkner.

*Nikki Carmody v. State Farm Lloyds*, No. 05-04-01806-CV. The appellants were personal friends and discussed the facts of this case with me prior to my becoming a judge.

Although I cannot recall the case name, I do recall that there was a case from which the entire Fifth District of Appeals recused.

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.

I have not held public office other than judicial offices. In 2004, I was an unsuccessful candidate in the Republican primary to become a judge of the 15th Judicial District Court of Grayson County.

- 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.

After consulting my records and the Internet, I have provided all of the information regarding my political activities that I can recall, though there may be some events that I have missed.

In addition to my own campaigns, I have volunteered for two other campaigns. In 1993, I volunteered for Senator Kay Bailey Hutchison's race for the United States Senate by distributing yard signs and by being a poll watcher. In 1984, I volunteered for Vice President Walter Mondale's presidential campaign, knocking on doors and participating in phone banks.

From 2005 to 2006, I served as a member of the Dallas Republican Party's Judiciary Advisory Committee, which met periodically to strategize about the re-election of Dallas judges. In 2004 and 2006, I also served as a delegate to the Texas Republican Convention. In 2004, I was a delegate to the Grayson County Republican Party Convention where I chaired the resolutions committee. My role as chair was ministerial; I was required to read all submitted resolutions to the convention delegates. In 1993, I was appointed by the Grayson County Republican Chair as Republican Precinct Chair for a few months until I resigned

to return to work for the United States District Court for the Eastern District of Texas, Sherman Division. Given my short tenure as a precinct chair, I did not attend any precinct chair meetings.

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;

From 1990 to 1992, I clerked for the Honorable Paul Brown, District Judge of the United States District Court for the Eastern District of Texas.

From October 1993 to March 2003, I served as a career law clerk for the Honorable Robert Faulkner, Magistrate Judge of the United States District Court for the Eastern District of Texas.

From March to August 2003, I clerked for the Honorable Don D. Bush, Magistrate Judge of the United States District Court for the Eastern District of Texas.

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

I have never practiced 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.

1992 – 1993, August 2003 – July 2004  
Wolfe, Tidwell & McCoy, LLP  
(formerly Henderson Bryant & Wolfe)  
320 North Travis Street, Suite 205  
Sherman, Texas 75090  
Of Counsel (August 2003 – July 2004)  
Associate (1992 – 1993)

- 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.

b. Describe:

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

During my time in private practice at Wolfe Tidwell & McCoy, LLP (formerly Henderson Bryant & Wolfe) from 1992 to 1993 and again from 2003 to 2004, I primarily represented municipalities in civil cases in state and federal court. My practice involved preparation of other civil matters for trial, including motion practice, written discovery, discovery disputes, depositions, research, and trial preparation. Typical cases included employment discrimination, civil rights, and railroad cases. I also served as court-appointed counsel in some criminal cases.

The bulk of my career before becoming a judge, however, was spent serving as a term law clerk and a career law clerk for Judges Paul Brown, Robert Faulkner and Don D. Bush. In this capacity, I assisted the judges in every aspect of civil and criminal cases before the court, including, but not limited to, evaluation of the court's subject matter jurisdiction, pre-trial motions, motions to remand, motions to compel, motions to dismiss, motions for summary judgment, evidentiary rulings before and during trial, jury instructions, and post-trial motions. For the last decade, I have served first as a state justice on the Fifth District Court of Appeals and a federal magistrate judge for the Eastern District of Texas.

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

During my private practice most of my work was for municipalities when they were sued.

- 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.

One hundred percent of my private practice was spent in litigation. Most of my private practice was federal litigation, although I did appear occasionally in state court. As an associate, I primarily worked on the motion practice, although I did appear in federal court for scheduling conferences.

- i. Indicate the percentage of your practice in:
  - 1. federal courts: 83%
  - 2. state courts of record: 17%
  - 3. other courts: 0%
  - 4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 91% |
| 2. criminal proceedings: | 9%  |

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 tried one case to verdict as lead counsel in a criminal case in federal court.

i. What percentage of these trials were:

- |              |      |
|--------------|------|
| 1. jury:     | 100% |
| 2. non-jury: | 0%   |

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.

None.

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:

- the date of representation;
- the name of the court and the name of the judge or judges before whom the case was litigated; and
- the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

The information requested dates back over ten years, and, unfortunately, I no longer have access to the records relating to my private practice. I attempted to search for cases through the CM/ECF/PACER system, but, due to the age of the cases, detailed information is not available. I have attempted to identify cases with as much specificity as I can recall and provide the information that I obtained through my investigation.

(1) *Watkins v. City of Clarksville*, No. 5:03cv237 (United States District Court for the Eastern District of Texas, Marshall Division); United States District Judge



John T. Ward.

After the plaintiff refused to take a requested drug test by the City, he was terminated. Plaintiff then sued, asserting claims for violation of his due process and for violation of his right to be free from unreasonable search and seizure. He sued the City, the City Manager, the Mayor, and the City Council Members. In addition to handling pretrial matters, I prepared the initial motion to dismiss on behalf of defendants. After I left the firm, United States District Judge John T. Ward granted the motion in part, dismissing the City Council Members and the Mayor. The motion was denied as to the City and the City Manager. The court subsequently granted a second motion to dismiss, closing the case. I worked on the case from October 2003 until July 2004.

Plaintiff's counsel:

Clarice Attaway Pat Allen  
P.O. Box 3  
Texarkana, TX 75504  
(903) 794-4440

Co-counsel:

James C. Tidwell  
Wolfe Tidwell & McCoy LLP  
320 North Travis Street, Suite 205  
Sherman, TX 75090  
(903) 868-1933

(2) *Etters v. City of Clarksville, Texas*, No. 5:03cv34 (United States District Court for the Eastern District of Texas, Texarkana Division); United States District Judge David Folsom.

Plaintiff was an employee of the City. Plaintiff asserted a claim for hostile environment under Title VII, an equal protection claim, and a claim for intentional infliction of emotional distress based on the failure to be selected for a position. In addition to working on pretrial matters, I prepared the motion for summary judgment on behalf of defendant. The motion was granted by United States District Judge David Folsom. Plaintiff filed a motion to reconsider, and I prepared the response. After I left the firm, another attorney handled additional briefing. Judge Folsom granted the motion to reconsider as to the hostile work environment and intentional infliction of emotional distress claims. The case settled. I worked on this case from August 2003 until July 2004.

Plaintiff's counsel:

Alex Arthur Castetter

Stuckey, Garrigan & Castetter  
2803 North Street  
P.O. Box 631902  
Nacogdoches, TX 75963  
(936) 560-6020

Co-counsel:

James C. Tidwell  
Wolfe Tidwell & McCoy LLP  
320 North Travis Street, Suite 205  
Sherman, TX 75090  
(903) 868-1933

(3) *Tinsley v. Town of Addison, Texas*, No. 3:93cv260 (United States District Court for the Northern District of Texas, Dallas Division); United States District Judge Sidney Fitzwater.

I worked on pretrial matters on behalf of defendant. After federal claims were dismissed, the state claim was remanded to state court. I worked on the case from February until October 1993.

Plaintiffs' counsel:

Albert B. Greco, Jr.  
7107 Schafer Street  
Dallas, TX 75252  
(214) 415-7333

Co-counsel:

Hon. Ron Clark (formerly with Henderson Bryant & Wolfe)  
The Jack Brooks Federal Building and  
United States Courthouse  
300 Willow Street, Suite 221  
Beaumont, TX 77701  
(409) 654-2800

(4) *Self v. Toyota Motor Sales*, No. 4:93cv121 (United States District Court for the Eastern District of Texas, Sherman Division); United States District Judge Paul Brown.

This was a personal injury case where I was appointed to serve as the guardian ad litem for the minor plaintiff. My role as the guardian ad litem was to investigate and advise the court whether the settlement was in the best interest of the minor.

After a hearing, the settlement was approved. I worked on the case in August 1993.

Plaintiffs' counsel:

Louis Claiborne Dugas  
Clay, Dugas and Associates  
805 Park Street  
Beaumont, TX 77701  
(409) 813-1111

Defendant's counsel:

Kurt Christopher Kern  
Bowman and Brooke LLP  
2501 North Harwood, Suite 1700  
Dallas, TX 75201  
(972) 616-1700

(5) *Ricketts v. City of Sherman*, No. 3:93cv22 (United States District Court for the Eastern District of Texas, Paris Division); United States District Judge William Wayne Justice.

This was an employment discrimination case where I assisted with pretrial matters for defendant. The case was transferred to the Sherman Division, and settled. My work on this case occurred from March to October 1993.

Plaintiff's counsel:

Ronald Huff  
112 South Crockett  
Sherman, TX 75090  
(903) 893-1616

Co-counsel:

Hon. Ron Clark (formerly with Henderson Bryant & Wolfe)  
The Jack Brooks Federal Building and  
United States Courthouse  
300 Willow Street, Suite 221  
Beaumont, TX 77701  
(409) 654-2800

Deborah Sterling (formerly with Henderson Bryant & Wolfe)  
Quilling Selander Lownds Winslett & Moser, P.C.  
2001 Bryan Street, Suite 1800

Dallas, TX 75201  
(214) 871-2100

(6) *Renda v. Horner*, No. 4:93cv21 (United States District Court for the Eastern District of Texas, Sherman Division); United States District Judge Paul Brown.

This was a slander case where I handled pretrial matters on behalf of the defendant, Mr. Horner. After I left the firm, the case proceeded to trial and resulted in a defense verdict. I worked on the case from February 1993 until October 1993.

Plaintiffs' counsel:

Brian Watson Erikson  
Milby, PLLC  
1909 Woodall Rogers, Suite 500  
Dallas, TX 75201  
(214) 220-1210

Co-counsel:

Hon. Ron Clark (formerly with Henderson Bryant & Wolfe)  
The Jack Brooks Federal Building and  
United States Courthouse  
300 Willow Street, Suite 221  
Beaumont, TX 77701  
(409) 654-2800

(7) *United States v. Kathy Willis*, No. 4:93cr2 (United States District Court for the Eastern District of Texas, Sherman Division); United States District Judge Paul Brown.

I was appointed by the court to represent Ms. Willis. She was charged with possession of a firearm during the commission of a drug crime. Ms. Willis's defense was that she was under duress. I offered expert testimony to support the duress defense based upon the theory of battered women's syndrome. After a jury trial, defendant was convicted. I represented Ms. Willis from the time of her arraignment in June 1993 through sentencing in October 1993.

Government counsel:

Cliff Stricklin (formerly with United States Attorney's Office)  
Bryan Cave LLP  
1700 Lincoln Street, Suite 4100  
Denver, CO 80203  
(303) 866-0372

(8) *Oatman v. City of Seagoville, Texas*, No. 3:92cv1666 (United States District Court for the Northern District of Texas, Dallas Division); United States District Judge Jane J. Boyle.

I worked on pretrial matters on behalf of defendants. After dispositive motions were filed, the case settled. I worked on the case from September 1992 until April 1993.

Plaintiffs' counsel:

James R. Tucker  
4201 Lomo Alto Drive, LB108  
Dallas, TX 75219  
(214) 505-0097

Co-counsel:

Hon. Ron Clark (formerly with Henderson Bryant & Wolfe)  
The Jack Brooks Federal Building and  
United States Courthouse  
300 Willow Street, Suite 221  
Beaumont, TX 77701  
(409) 654-2800

(9) *Landers v. City of Daingerfield*, No. 2:92cv124 (United States District Court for the Eastern District of Texas, Marshall Division); United States District Judge Sam B. Hall, Jr.

This was a civil rights action in which I assisted with pretrial matters in representation of defendant Sartain. The case settled. My work on this case occurred from October 1992 to October 1993.

Plaintiff's counsel:

Barry Dale Jenkins  
Deceased

City of Daingerfield's counsel:

Thomas Brandt  
Fanning Harper Martinson Brandt & Kutchin PC  
4849 Greenville Avenue, Suite 1300  
Dallas, TX 75206  
(214) 860-0324

Rogers' counsel:

Robert William Weber  
Smith Weber LLP  
5505 Plaza Drive  
P.O. Box 6167  
Texarkana, TX 75505  
(903) 223-5656

Co-counsel:

Hon. Ron Clark (formerly with Henderson Bryant & Wolfe)  
The Jack Brooks Federal Building and  
United States Courthouse  
300 Willow Street, Suite 221  
Beaumont, TX 77701  
(409) 654-2800

(10) *Donnell v. Denton County, Texas*, No. 4:91cv140 (United States District Court for the Eastern District of Texas, Sherman Division); United States District Judge Paul Brown and United States Magistrate Judge Judith Guthrie.

This was a prisoner civil rights case where I handled pretrial matters for defendants. The case settled. My work on this case would have been from December 1992 to September 1993.

Plaintiff was pro se.

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.)

In addition to my years in private practice, I assisted with numerous civil and criminal hearings and trials as a law clerk to the late District Judge Paul Brown and as a career law clerk to Magistrate Judge Robert Faulkner. I assisted Judge Brown and Judge Faulkner in every aspect of cases before the court, from the initial filing to the disposition of each case. I drafted orders, memoranda, and jury instructions in civil and criminal cases. This involved extensive research of the law and required knowledge of the Federal Rules of Civil and Criminal Procedure, as well as the court's local rules, policies, and procedures.

In addition, I assisted Judges Brown and Faulkner throughout bench and jury trials, researching legal issues as needed and drafting findings of fact and conclusions of law

following bench trials. During jury trials, I was actively involved in the preparation of jury instructions and verdict forms in both civil and criminal cases. Specifically, I received proposed jury instructions and verdict forms from the parties before trial, and from those proposed jury documents, I would prepare jury instructions and verdict forms based on the evidence presented at trial. It was my duty to draft appropriate instructions for the court to issue in light of the rulings and evidence presented at trial. Judges Brown and Faulkner would review the jury instructions with the parties informally and then hold a formal jury instruction conference. From time to time, questions would arise during jury deliberations, and it was my responsibility to advise the judge as to the applicable law.

As a career law clerk, I also helped manage the judge's caseload daily. Judge Faulkner was responsible for one-third of the civil cases filed in the Sherman Division for all pretrial purposes. It was my responsibility to review cases, research the law, and make recommendations to Judge Faulkner on the disposition of various motions. I drafted opinions on all motions as well as Social Security appeals. I also met with the pro se law clerks to monitor prisoner cases on Judge Faulkner's docket.

In criminal cases, I attended hearings, including, but not limited to, change of plea hearings, pre-trial motion hearings, suppression hearings, and detention hearings. I researched any legal issues that arose during these hearings and I drafted orders and opinions that addressed these issues.

I have not performed any 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 course.

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 plans to pursue outside employment.

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.

I do not have any family members, persons, parties, litigation, or financial arrangements that are likely to present potential conflicts of interest if I am confirmed. My wife works for the Sherman Independent School District. If the school district ever became a party in a case before me, I would recuse myself from the case if the case was not flagged by the court's conflict system. If any such conflict arose, I would address it in the manner instructed by the Code of Conduct for United States Judges, Canon 3.

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

I would continue to follow the federal recusal statute and the Code of Conduct for United States Judges. I would use the conflict screening provided by the court, as well as personally reviewing each case assigned to me for potential conflicts. If necessary, I would seek advice from the Code of Conduct Committee of the Judicial Conference. In cases where any uncertainty exists, I will err on the side of recusal rather than non-recusal.

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.



While in private practice, I did handle one pro bono divorce in the 15th District Court of Grayson County. However, during my employment with the district court, both as a career law clerk and as a magistrate judge, and during my employment as a justice at the court of appeals, I was prohibited from practicing law, except in very limited circumstances.

During my years in public service, I contributed to the community as permissible. For instance, I created Junior Judges: Helping Kids Make Smart Choices, an elementary school project adopted by and used in over 1,300 elementary schools in Texas. The program is designed to help children make the right choices in tough situations they will likely encounter in their childhood and adolescent years. It is also designed to inform children of potential consequences they and their families may face if they make the wrong decisions. The curriculum covers cheating, property destruction, teasing, bullying, stealing, weapons and gangs, and drugs and alcohol. I created an award-winning video, which is used while teaching the program to elementary students. Junior Judges was awarded the ABA Endowment Award for Best Public Service Project in 2002. It was also adopted by the American Bar Association and implemented in all 50 states. I started this program at my children's elementary school, and I continue to teach it today.

I also co-created Supreme Team: Layin' Down the Law. The goal of Supreme Team is to educate high school seniors about the Constitution through the "eyes" of the Supreme Court of the United States. This curriculum allows the students to experience the Supreme Court from the view of a justice by taking the students through the steps that are required to become a justice. The students play the roles of potential justices and senators in a mock confirmation hearing. All students review a mock Supreme Court Nominee Questionnaire and a mock FBI background check. The students then examine potential Supreme Court cases from four various subject areas. The students decide which cases will be set for oral argument, and they review real cases in these four subject areas and examine the Supreme Court's interpretation of the Constitution in these four areas. The project culminates with the students conducting a moot court, where the students play the roles of the Supreme Court Justices, lawyers, and other court personnel. At the end of the argument and after the student justices reach a decision on each case, the students are instructed on how the Supreme Court decided each case and why. This project is an active project for the Texas Young Lawyers. For my work on this project, I received the Texas Young Lawyers' President's Award.

I also worked to educate senior citizens about their legal rights. I chaired the Needs of Senior Citizens Committee. I started conducting seminars around the state of Texas to educate senior citizens about their legal rights and to educate them about the need for advanced planning. My motivation for this effort was due to my own mother's Alzheimer's disease and the fact that she was ill-prepared for facing her golden years. I implemented the model in Grayson County and then coordinated statewide implementation. I have made presentations about this topic around the state and nationwide. For my work on this project, I was awarded the Texas Young Lawyers' Director of the Year Award. This project still continues in Grayson County.

I am also active in several non-profits, including the Dallas Summer Musicals and the Sherman Community Players. I recently served as President of the Sherman Community Players, which seeks to provide quality theater to the local community as well as educate children about the theater.

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 August 14, 2013, I submitted my application to Senators John Cornyn and Ted Cruz, in response to their call for applications for the position of United States District Judge for the Eastern District of Texas, Sherman Division. On November 22, 2013, I interviewed with the Senators' Federal Judiciary Evaluation Committee in Houston, Texas. On February 18, 2014, I was invited to interview with Senators Cornyn and Cruz. Since February 25, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On March 13, 2014, I interviewed with Senators Cornyn and Cruz in Washington, D.C. On March 14, 2014, I was notified by Senator Cornyn's office that my name was sent to the White House. On April 2, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On June 26, 2014, 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.

AO 10  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Mazzant, Amos L.	2. Court or Organization District Court Eastern District of Texas	3. Date of Report 06/26/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)  United States District Judge	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination      Date 06/26/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final  5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/1/2013 to 06/24/2014
7. Chambers or Office Address  United States Courthouse Annex 200 N. Travis Street Mezzanine Level Sherman, Texas 75090		
<b>IMPORTANT NOTES:</b> <i>The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.</i>		

**I. POSITIONS.** *(Reporting individual only; see pp. 9-13 of filing instructions.)*

NONE *(No reportable positions.)*

	<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1.	Director	Dallas Summer Musicals
2.	Director	Sherman Community Players
3.	Officer	Judge Paul Brown American Inn of Court
4.		
5.		

**II. AGREEMENTS.** *(Reporting individual only; see pp. 14-16 of filing instructions.)*

NONE *(No reportable agreements.)*

	<u>DATE</u>	<u>PARTIES AND TERMS</u>
1.	2004	Judicial Retirement System of Texas; no control; not vested
2.	2004	Texas County and District Retirement Systems; no control; not vested
3.		

**FINANCIAL DISCLOSURE REPORT**  
Page 2 of 7

<b>Name of Person Reporting</b> Mazzant, Amos L.	<b>Date of Report</b> 06/26/2014
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**III. NON-INVESTMENT INCOME.** *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

**A. Filer's Non-Investment Income**

NONE *(No reportable non-investment income.)*

	<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> <i>(yours, not spouse's)</i>
1.			
2.			
3.			
4.			

**B. Spouse's Non-Investment Income** - *If you were married during any portion of the reporting year, complete this section.*  
*(Dollar amount not required except for honoraria.)*

NONE *(No reportable non-investment income.)*

	<u>DATE</u>	<u>SOURCE AND TYPE</u>
1.	2013	Sherman I.S.D., Teacher
2.	2014	Sherman I.S.D., Teacher
3.		
4.		

**IV. REIMBURSEMENTS** - *transportation, lodging, food, entertainment.*  
*(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*

NONE *(No reportable reimbursements.)*

	<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1.	Exempt				
2.					
3.					
4.					
5.					

**FINANCIAL DISCLOSURE REPORT**  
Page 3 of 7

Name of Person Reporting Mazzant, Amos L.	Date of Report 05/26/2014
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**V. GIFTS.** (Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)

NONE (No reportable gifts.)

	SOURCE	DESCRIPTION	VALUE
1. Exempt			
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** (Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)

NONE (No reportable liabilities.)

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

**FINANCIAL DISCLOSURE REPORT**  
Page 4 of 7

<b>Name of Person Reporting</b> Mazzant, Amos L.	<b>Date of Report</b> 06/26/2014
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**VII. INVESTMENTS and TRUSTS** – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A Description of Assets (including trust assets)  Place "X" after each asset exempt from prior disclosure	B Income during reporting period		C Gross value at end of reporting period			D Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)	
	1. JPMorgan Chase & Co Accounts	A	Interest	K	T	Exempt				
2. T. Rowe Price Prime Reserve Fund	A	Dividend	K	T	Exempt					
3. T. Rowe Price Science & Technology Fund		None	J	T	Exempt					
4. T. Rowe Price Equity Income Fund (IRA)	A	Dividend	K	T	Exempt					
5. T. Rowe Price Equity Index 500 Fund (IRA)	A	Dividend	K	T	Exempt					
6. T. Rowe Price New Horizons Fund (IRA)	A	Dividend	K	T	Exempt					
7. T. Rowe Price Spectrum Growth Fund (IRA)	B	Dividend	K	T	Exempt					
8. T. Rowe Price Spectrum International Fund (IRA)	A	Dividend	K	T	Exempt					
9. Vanguard Wellington Fund (457)	A	Dividend	J	T	Exempt					
10. Vanguard Institutional Index Fund (457)	A	Dividend	J	T	Exempt					
11. Vanguard Growth Fund (457)	A	Dividend	J	T	Exempt					
12. Fidelity Diversified International Fund (457)	A	Dividend	J	T	Exempt					
13. Lord Abbott Small Cap Value Fund (457)	A	Dividend	J	T	Exempt					
14. Texas Judicial Retirement System Account	B	Interest	L	T	Exempt					
15. Texas County and District Retirement Account	A	Interest	J	T	Exempt					
16. Teachers Retirement System of Texas	B	Interest	K	T	Exempt					
17. Texas College Savings Plan #1- Blended Age-Based Portfolio	A	Dividend	J	T	Exempt					

1. Income Gain Codes: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000  
 (See Columns B1 and D4)  
 F = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H = \$1,000,001 - \$5,000,000; I = \$5,000,001 - \$50,000,000; J = \$50,000,001 - \$500,000,000; K = \$500,000,001 - \$5,000,000,000; L = \$5,000,000,001 - \$50,000,000,000; M = \$50,000,000,001 - \$500,000,000,000; N = \$500,000,000,001 - \$5,000,000,000,000; O = \$5,000,000,000,001 - \$50,000,000,000,000; P = \$50,000,000,000,001 - \$500,000,000,000,000; Q = \$500,000,000,000,001 - \$5,000,000,000,000,000; R = Cash (Real Estate Only); S = Assessment; T = Cash Market  
 2. Value Codes: J = \$15,000 or less; K = \$15,001 - \$50,000; L = \$50,001 - \$100,000; M = \$100,001 - \$250,000; N = \$250,001 - \$500,000; O = \$500,001 - \$1,000,000; P = \$1,000,001 - \$5,000,000; Q = \$5,000,001 - \$25,000,000; R = \$25,000,001 - \$50,000,000; S = \$50,000,001 - \$250,000,000; T = \$250,000,001 - \$500,000,000; U = \$500,000,001 - \$1,000,000,000; V = \$1,000,000,001 - \$5,000,000,000; W = \$5,000,000,001 - \$25,000,000,000; X = \$25,000,000,001 - \$50,000,000,000; Y = \$50,000,000,001 - \$250,000,000,000; Z = \$250,000,000,001 - \$500,000,000,000  
 3. Value Method Codes (See Column C2): U = Appraisal; V = Book Value; W = Other; X = Cost (Real Estate Only); Y = Other; Z = Estimated

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Mazzanti, Amos L.	<b>Date of Report</b> 06/26/2014
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**VII. INVESTMENTS and TRUSTS** – income, value, transactions (Includes those of spouse and dependent children; see pp. 14-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
18. Texas College Savings Plan #2 - Blended Age-Based Portfolio	A	Dividend	J	T	Exempt					
19. Texas Educators Federal Credit Union Savings Account	A	Interest	J	T	Exempt					
20. T. Rowe Price New Horizons (Roth IRA)	A	Dividend	J	T	Exempt					
21. American Century Investments All Cap Growth (formerly Gift Trust)		None	J	T	Exempt					
22. T. Rowe Price Science & Technology Fund (JT)		None	J	T	Exempt					
23. State Farm: Universal Life	A	Interest	J	T	Exempt					

- 1. Income Gain Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000
- (See Columns B1 and D4)
- 2. Value Codes: F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H=\$1,000,001 - \$5,000,000; I=\$5,000,001 - \$10,000,000; J=\$10,000,001 - \$25,000,000; K=\$25,000,001 - \$50,000,000; L=\$50,000,001 - \$100,000,000; M=\$100,000,001 - \$250,000,000; N=\$250,000,001 - \$500,000,000; O=\$500,000,001 - \$1,000,000,000; P=\$1,000,000,001 - \$5,000,000,000; Q=\$5,000,000,001 - \$25,000,000,000; R=More than \$25,000,000,000
- (See Columns C1 and D3)
- 3. Value Method Codes: U=Book Value; V=Other; W=Estimated
- (See Column C2)
- X=Appraisal; Y=Assessment; Z=Cash Market
- AA=Cash (Real Estate Only); AB=Accrual

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
Mazzant, Amos L.	05/26/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*



**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
Mazzant, Amos L.	06/26/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/ Amos L. Mazzant*

**NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)**

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

**FINANCIAL STATEMENT**  
**NET WORTH**

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

ASSETS				LIABILITIES			
Cash on hand and in banks		38	181	Notes payable to banks-secured (autos)		59	550
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		185	198	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		160	851
Real estate owned – personal residence		215	571	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		69	190				
Cash value-life insurance		1	424				
Other assets itemize:							
Texas Judicial Retirement System		51	863				
Texas County & District Retirement System		3	419				
Teachers Retirement System of Texas		32	657	Total liabilities		220	401
Thrift Savings Plan		41	173	Net Worth		418	275
Total Assets		638	676	Total liabilities and net worth		638	676
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)		No	
On leases or contracts				Are you defendant in any suits or legal actions?		No	
Legal Claims				Have you ever taken bankruptcy?		No	
Provision for Federal Income Tax							
Other special debt							

**FINANCIAL STATEMENT****NET WORTH SCHEDULES**

<u>Listed Securities</u>	
American Century Investments Gift Trust/All Cap Growth	\$ 2,152
Fidelity Diversified International Fund	3,860
Lord Abbott Small Cap Value Fund	5,319
T. Rowe Price Equity Income Fund	20,208
T. Rowe Price Equity Index 500 Fund	20,721
T. Rowe Price New Horizons Fund	19,622
T. Rowe Price Prime Reserve Fund	22,568
T. Rowe Price Science & Technology Fund	5,289
T. Rowe Price Spectrum Growth Fund	27,064
T. Rowe Price Spectrum International Fund	17,295
Texas College Savings Plan Blended Age-Based Portfolio	18,733
Vanguard Growth Fund	5,771
Vanguard Institutional Index Fund	7,219
Vanguard Wellington Fund	9,377
Total Listed Securities	<u>\$ 185,198</u>

AFFIDAVIT

I, Amos L. MAZZANT, III, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

6/26/14  
(DATE)

Amos L. Mazzant, III  
(NAME)



Terri Kaye Roby  
(NOTARY)

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Robert Lee Pitman

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

United States District Judge for the Western District of Texas

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.

United States Attorney's Office for the Western District of Texas  
601 Northwest Loop 410, Suite 600  
San Antonio, Texas 78216

I have residences in Austin, Texas and San Antonio, Texas.

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

1962; Fort Worth, Texas

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.

2009 – 2011; University of Oxford, M.St. (Law), 2011

1995 – 1996; University of Texas at Austin (graduate studies in Sociology), no degree earned

1995; Rice University (graduate studies in Philosophy), no degree earned

1985 – 1988; University of Texas at Austin, J.D., 1988

1981 – 1985; Abilene Christian University, B.S., 1985

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.

2011 – Present, 1990 – 2003  
United States Attorney's Office for the Western District of Texas  
601 Northwest Loop 410, Suite 600  
San Antonio, Texas 78216  
U.S. Attorney (2011 – Present)  
Deputy U.S. Attorney (2001 – 2003)  
Interim U.S. Attorney (May – November 2001)  
Assistant U.S. Attorney (1990 – 2001)  
Deputy Division Chief (1997 – 1999)  
Division Chief (1999 – 2001)

2003 – 2011  
United States District Court for the Western District of Texas  
200 West 8th Street  
Austin, Texas 78701  
U.S. Magistrate Judge

2002 – 2011  
University of Texas at Austin  
Plan II Honors Program  
School of Law  
727 East Dean Keeton  
Austin, Texas 78705  
Adjunct Professor of Law

1996 – 1997  
Executive Office for U.S. Attorneys, Office of Legal Counsel (now General Counsel)  
600 E Street, NW, Suite 5100  
Washington, D.C. 20530  
Attorney Advisor

1989 – 1990, Summer 1987  
Fulbright & Jaworski (now Norton Rose Fulbright)  
600 Congress Avenue, Suite 2400  
Austin, Texas 78701  
Associate (1989 – 1990)  
Summer Associate (Summer 1987)

1988 – 1989  
United States District Court for the Northern District of Texas  
501 West 10th Street  
Fort Worth, Texas 76102

Law Clerk for the Hon. David O. Belew, Jr.

Summer 1987  
Haynes & Boone  
201 Main Street, Suite 2200  
Fort Worth, Texas 76102  
Summer Associate

Summer 1986  
Law, Snakard & Gambill  
1600 West 7th Street, Suite 500  
Fort Worth, Texas 76102  
Summer Associate

1985 – 1987  
Texas House of Representatives, Rep. Bob Hunter (Ret.)  
Austin, Texas  
Legislative Aide

Other Affiliations (uncompensated):

2009 – 2010  
Lloyd Lochridge American Inn of Court  
Austin, Texas (no physical address)  
Founding President

2005 – 2006  
Preservation Austin (formerly Heritage Society of Austin)  
500 Chicon Street  
Austin, Texas 78702  
Board Member

1993 – 1995  
United Cerebral Palsy of the Capital Area  
9027 Northgate Boulevard, Suite 101  
Austin, Texas 78758  
Board Member

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 U.S. Military. I timely registered for Selective Service.

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.

Texas Jurist of the Year, Texas Review of Litigation (2011)

As an Assistant U.S. Attorney, I received special commendations from the Federal Bureau of Investigation (2001), the U.S. Secret Service (2001), the U.S. Department of State, Bureau of Diplomatic Security (1994), the U.S. Drug Enforcement Administration (1996), the Executive Office for U.S. Attorneys (1998), and the Federal Deposit Insurance Corporation (1995).

Dean's Award in Torts (1986)

Salutatorian (1985)

History Department Prize (1985)

Psychology Department Outstanding Graduate (1985)

Students Association President (1985)

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.

Austin Bar Association

Federal Bar Association

State Bar of Texas

Supreme Court of Texas Task Force on Disciplinary Rules

Texas Bar Foundation

Travis County Bar Association

United States Attorney General's Advisory Committee

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.

Texas, 1988



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 District Court for the Northern District of Texas, 1988  
United States District Court for the Western District of Texas, 1990  
United States Court of Appeals for the Fifth Circuit, 1990

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.

Heritage Society of Austin (2005 – 2006)  
Board Member (2005 – 2006)

Hill Country Ride for AIDS Production Team (2001 – 2005)

Lloyd Lochridge American Inn of Court (2009 – present)  
Founding President (2009)

Robert Calvert American Inns of Court (1998 – 2008)

Texas State Society (2011 – present)

United Cerebral Palsy of the Capital Area (1993 – 1995)  
Board Member (1993 – 1995)

United Way Inclusiveness Task Force (2003)

University of Texas Center for Criminology and Criminal Justice Studies (1998 – 2006)  
Board of Advisors (1998 – 2006)

University of Texas Rhodes and Marshall Scholarship Screening Committee  
(2009 – present)

- 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 the best of my knowledge, none of the organizations listed above 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.

*Welcome Page*, Website of the United States Attorney's Office for the Western District of Texas. <http://www.justice.gov/usao/tsw/>.

- 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.

Report of Supreme Court of Texas Task Force on Disciplinary Rules. Copy supplied.

- 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.

I have not provided testimony, official statements, or other communications to any public bodies or public officials.

- 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.

The list that follows represents my best efforts, through a search of my records and calendar, to identify speeches, remarks and panel discussions in which I have participated. However, there may be other speeches or remarks that I have been unable to recall or identify. Often, when I engage in public speaking, I do so without outlines or prepared remarks and address questions from the audience.

June 19, 2014: Speaker, Federal Bureau of Investigation Citizens Academy Graduation, San Antonio, Texas. My comments focused on civic duty and the mission of the U.S. Attorney's Office. Updated version of the State of the District PowerPoint presentation supplied

May 21, 2014: Speaker, U.S. Marshals' Commemoration of National Missing Children's Day, United States Courthouse, Austin, Texas. My comments focused on the hazards posed by the Internet on children today. I have no notes, transcript, or recording. The address for the U.S. Marshals is 501 West 5th Street, Suite 3300, Austin, Texas 78701.

April 8, 2014: Panelist, "Preparing for a Federal District Clerkship," University of Texas School of Law, Austin, Texas. My comments focused on how to get the most from the clerkship experience. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

February 20, 2014: Guest Lecturer, Advanced Criminal Law Course, University of Texas School of Law, Austin, Texas. My remarks focused on principles of federal prosecution. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

February 19, 2014: Speaker, Charles McCormick Society, University of Texas School of Law, Austin, Texas. My comments focused on judicial clerkships and public service opportunities for young lawyers. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

February 2, 2014: Speaker, Public Service Law Day, University of Texas School of Law, Austin, Texas. My remarks focused on opportunities for public service within the legal profession. I have no notes, transcript, or recording. The address

of the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

January 23, 2014: January 26, 2012 – Panelist, “Leadership and the Practice of Law,” Austin Bar Leadership Academy, Austin Bar Association. Austin, Texas. My comments focused on the skills necessary to become an effective leader in the legal community. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

January 22, 2014: Speaker, “Ethics in the Federal Courts,” Texas Civil Justice League, Austin, Texas. PowerPoint supplied.

November 26, 2013: Speaker, University of Texas School of Law Career Panel, Austin, Texas. My remarks focused on my personal career path including my experiences as a federal prosecutor, magistrate judge, and my current role as U.S. Attorney. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

November 5, 2013: Speaker (via prerecorded video), Lloyd Lochridge Inn of Court, Austin, Texas. My remarks focused on federal prosecution on marijuana offenses. DVD supplied.

October 28, 2013: Speaker, “The Emergence of Synthetic Drugs in Central Texas,” University of Texas, Office of the Dean of Students, Austin, Texas. PowerPoint supplied.

September 26, 2013: Speaker, Austin Women’s Club. Austin, Texas. My presentation consisted of a “State of the District” address from the perspective of the U.S. Attorney. Updated version of the State of the District PowerPoint presentation supplied.

September 24, 2013: Panelist, “A View from the USAO,” The 37th Annual Southwest Securities Conference, Securities & Exchange Commission, Financial Industry Regulatory Authority, and Texas State Securities Board, Dallas, Texas. Notes supplied.

September 17, 2013: Panelist, 2013 Hate Crimes Conference, Anti-Defamation League, Austin, Texas. My comments focused on federal prosecution of hate crimes. I have no notes, transcript, or recording. The address for the Anti-Defamation League Austin is 3102 Windsor Road, Suite D, Austin, Texas 78703.

September 17, 2013: Lunch Speaker, McCormick Society at the University of Texas School of Law, Austin, Texas. My comments focused on judicial clerkships and public service opportunities for young lawyers. I have no notes, transcript, or recording. The address for the McCormick Society 7 is University of Texas School of Law, 727 East Dean Keeton Street, Austin, Texas 78705.

June 20, 2013: Speaker, Federal Bureau of Investigation Citizens Academy Graduation, San Antonio, Texas. My comments focused on civic duty and the mission of the U.S. Attorney's Office. I used the same notes as those supplied for a similar September 26, 2013 event.

May 18, 2013: Commencement Speaker, Trinity Valley School (alma mater), Fort Worth, Texas. Video recording supplied.

April 18, 2013: Lunch Speaker, Austin Chapter of the Society of Former Special Agents of the FBI, Austin, Texas. My remarks focused on current issues in federal law enforcement. I have no notes, transcript, or recording. The address for the Society of Former FBI Agents is 3717 Fetter Park Drive, Dumfries, Virginia 22025.

April 6, 2013: Panelist, Annual Conference 2013, Asian Pacific Islander Bar Association, Texas Conference, Austin, Texas. The session focused on financial fraud investigations from the perspective of prosecutors and defense counsel. I have no notes, transcript, or recording. The address for the Austin Asian American Bar Association is c/o Tuni Nguyen, Locke, Lord, Bissell & Liddel, 100 Congress Avenue, Suite 300, Austin, Texas 78701.

April 4, 2013: Opening Remarks, ATAC Training for Law Enforcement, U.S. Department of Justice, San Antonio, Texas. My remarks focused on the importance of counterterrorism in our community. I have no notes, transcript or recording. The address for the U.S. Attorney's Office is 601 Northwest Loop 410, San Antonio, Texas 78216.

April 2, 2013: Guest Speaker, LULAC Texas District 12, Austin, Texas. My remarks focused on the function and priorities of the U.S. Attorney's Office. I have no notes, transcript, or recording. LULAC Texas District 12 has no physical address.

March 28, 2013: Welcoming Remarks, 55th Annual Conference of the Texas Police Chiefs Association, Austin, Texas. My welcoming remarks were brief. I have no notes, transcript, or recording. The address for the Texas Police Chiefs Association is 1312 East Highway 290, Suite C, Elgin, Texas 78621.

March 7, 2013: Guest Lecturer, Professor Mike Lauderdale's course "Survey of the Criminal Justice System," University of Texas School of Social Work, Austin, Texas. My comments focused on the enforcement priorities of the U.S. Attorney's Office and crime trends. I have no notes, transcript, or recording. The address for the University of Texas School of Social Work is 1925 San Jacinto Boulevard, Austin, Texas 78712.

February 16, 2013: Moot Court Judge, National Animal Law Competitions, Lewis & Clark Law School, Portland, Oregon. I served as a moot court judge and provided feedback on students' performance. I have no notes, transcript, or recording. The address for Lewis & Clark Law School is 10015 Southwest Terwilliger Boulevard, Portland, Oregon 97219.

February 13, 2013: Panelist, "Leadership and the Practice of Law," Austin Bar Leadership Academy, Austin Bar Association, Austin, Texas. My comments focused on the skills necessary to become an effective leader in the legal community. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

February 8, 2013: Welcoming Remarks, National White Collar Crime Board of Directors Meeting, San Antonio, Texas. My remarks focused on the prevention, investigation and prosecution of economical and high tech crime. I have no notes, transcript or recording. The address for the National White Collar Crime Center is 5000 NASA Boulevard, Suite 2400, Fairmont, WV 26554.

September 28, 2012: Speaker, 4th Friday CLE with the Austin Bar Association, Austin, Texas. My remarks focused on issues within the Western District of Texas. I used the same notes as those supplied for a similar September 26, 2013 event.

June 22, 2012: Speaker, Texas Chapter of American Board of Trial Advocates Annual Conference, Santa Fe, New Mexico. My presentation focused on financial fraud from a prosecutor's perspective. PowerPoint supplied.

April 13, 2012: Panelist, "Nightmare on 9th Street," 2012 Austin Bench Bar Conference, Austin Young Lawyers Association, Austin Bar Association, Austin, Texas. My comments focused on effective techniques in presenting cases to judges and juries. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

March 29, 2012: Opening remarks, ATAC Training for Law Enforcement, U.S. Department of Justice, San Antonio, Texas. My remarks focused on the importance of having an effective counterterrorism team in our community. I have no notes, transcript or recording. The address for the U.S. Attorney's Office is 601 Northwest Loop 410, San Antonio, Texas 78216.

February 26, 2012: Moot Court Judge, National Animal Law Competitions, sponsored by Lewis & Clark Law School, held at the University of California, Los Angeles Law School, Los Angeles, California. I served as a moot court judge and provided feedback on students' performance. I have no notes, transcript, or recording. The address of Lewis & Clark Law School is 10015 Southwest Terwilliger Boulevard, Portland, Oregon 97219.

February 2, 2012: Speaker, OUTLaw event at the University of Texas School of Law, Austin, Texas. My comments focused on my career path. I have no notes, transcript or recording, but press coverage is supplied. The address of the OUTLaw group at the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

January 26, 2012: Panelist, "Leadership and the Practice of Law," Austin Bar Leadership Academy, Austin Bar Association, Austin, Texas. My comments focused on the skills necessary to become an effective leader in the legal community. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

January 19, 2012: Brief Remarks, Austin / Travis County Hate Crimes Task Force, Austin, Texas. My brief remarks focused on the scope of Federal Hate Crimes jurisdiction. I have no notes, transcript, or recording. The address for the City of Austin is 505 Barton Springs Road, Austin, Texas 78704.

November 22, 2011: Speaker, Investiture Speech, University of Texas, Austin, Texas. Notes supplied.

November 17, 2011: Panelist, Ultimate Trial Notebook Seminar, Austin Bar Association's Civil Litigation Section, Austin, Texas. My comments focused on effective presentation of evidence at trial. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

November 9, 2011: Luncheon Speaker, San Antonio Chapter of the Federal Bar Association, San Antonio, Texas. My presentation consisted of a "State of the District" address from the perspective of the U.S. Attorney. I used the same notes as those supplied for a similar September 26, 2013 event.

September 27, 2011: Guest Lecturer, Advanced Criminal Law course, University of Texas Law Class, Austin, Texas. My remarks focused on principles of federal prosecution. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

March 3, 2011: Guest Lecturer, Advanced Civil Trial Advocacy Course, University of Texas School of Law, Austin, Texas. PowerPoint supplied.

February 25, 2011: Moot Court Judge, National Animal Law Competitions, sponsored by Lewis & Clark Law School and held at Harvard Law School, Cambridge, Massachusetts. I have no notes, transcript, or recording. The address for Lewis & Clark Law School is 10015 Southwest Terwilliger Boulevard, Portland, Oregon 97219.

November 19, 2010: Panelist, "ABA Prosecution and Defense Functions Standards Roundtable," University of Texas School of Law, Austin, Texas. The panel discussion focused on exercising charging discretion. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

November 12, 2010: Speaker, "The Effective Advocate," Ultimate Trial Notebook Seminar, Austin Bar Association, Austin, Texas. My comments focused on giving effective opening statements. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

April 30, 2010: Panelist, "Persuading Judges and Juries," 2010 Austin Bench Bar Conference, Austin Bar Association, Austin Young Lawyers Association, Austin, Texas. My comments focused on effective techniques in presenting cases to judges and juries. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

From approximately 2009 to 2011, I participated in an annual Drinking and Driving awareness program sponsored by Anderson High School in Austin. The program culminated in a mock sentencing that I conducted in my courtroom. I have no notes, transcripts, or recordings of these events. The address of Anderson High School is 8403 Mesa Drive, Austin, Texas 78759.

November 19, 2009: Moderator, "Ethics at the Alamo," Austin Bar Association, Austin, Texas. My participation consisted of moderating a panel of judges and attorneys discussing topics in legal ethics. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

February 23, 2009: Panelist, "Judicial Clerkships," University of Texas School of Law Career Services Office, Austin, Texas. The panel discussion focused on the benefits of judicial clerkships and best practices for a clerkship application. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

October 28, 2008: Guest Lecturer, Professor William Kelly's undergraduate criminal justice course, University of Texas, Austin, Texas. My presentation focused on the role of federal prosecutors and distinctions between federal and state criminal justice systems. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

October 15, 2008: Luncheon Speaker, Outlaw student organization, University of Texas School of Law, Austin, Texas. My comments focused on my career path and professional advice to law students. I have no notes, transcript, or recording.



The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

May 18, 2009: Panelist, "Federal Court Practice and Developments Update," Austin Bar Association's Civil Litigation Section, Austin, Texas. My remarks focused on topics of interest to civil litigators in federal district court. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

May 15, 2008: Speaker, "Breakfast with the Judiciary," Austin Bar Association, Austin, Texas. My remarks focused on chambers policies and preferred courtroom practices. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

April 18, 2008: Panelist, "Off the Record: Attorneys' Anonymous Questions for the Judiciary," 2008 Austin Bench Bar Conference, Austin Bar Association, Austin Young Lawyers Association, San Antonio, Texas. My comments focused on responses to questions concerning court practices and judges' preferences in the Austin Division of the Western District of Texas. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

April 1, 2008: Guest Lecturer in Professor William Kelly's Undergraduate Criminal Justice Course, University of Texas, Austin, Texas. My presentation focused on the role of federal prosecutors and distinctions between federal and state criminal justice systems. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

November 15, 2007: Moderator, "Ethics at the Alamo," Austin Bar Association, Austin, Texas. My participation consisted of moderating a panel of judges and attorneys discussing topics in legal ethics. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

November 7, 2007: Speaker, "Criminal Overview and Appointments," Federal Court Practice Seminar, Austin Chapter of the Federal Bar Association and Austin Bar Association, Austin, Texas. My comments focused on the role of appointed counsel in federal criminal cases. PowerPoint supplied.

November 1, 2007: Guest Lecturer, Professor William Kelly's undergraduate criminal justice course, University of Texas, Austin, Texas. My presentation focused on the role of federal prosecutors and distinctions between federal and state criminal justice systems. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

June 15, 2006: Panelist, "Attorneys, Journalists and Trial Consultants Discuss Image of the Legal Profession and Death Penalty Issues." University of Texas School of Law, Austin, Texas. The panel discussion focused on perceptions of the legal profession within the broader scope of death penalty and innocence issues. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

February 3, 2006: Panel Moderator, Texas Law Review Symposium: Punishment Law & Policy, University of Texas School of Law, Austin, Texas. My panel focused on the operation of the sentencing guidelines. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

October 3 - 8, 2005: Presenter, Judicial Seminar in Islamabad, Pakistan, sponsored by the U.S. Drug Enforcement Administration, Office of International Training. I traveled to Pakistan with a group of American judges and prosecutors to share best practices concerning narcotics and public corruption cases. I have no notes, transcript, or recording. The address for the DEA Office of Training is P.O. Box 1475, Quantico, Virginia 22124.

April 5, 2005: Panelist, "Judicial Clerkships," University of Texas School of Law Career Services Office, Austin, Texas. The panel discussion focused on the benefits of judicial clerkships and best practices for clerkship application. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

February 22, 2005: Presentation, University of Texas Prelaw Society, Austin, Texas. My presentation covered the law school admissions process. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

October 27, 2004: Guest Lecturer, Advanced Criminal Law Class, University of Texas School of Law, Austin, Texas. My comments focused on federal criminal law and procedure. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

May 7, 2004: Speaker, Travis County Women Lawyer's Association "Day in Court" CLE Program, Austin, Texas. Notes supplied.

February 19, 2004: Speaker, Travis County Bar Association Breakfast (now Austin Bar Association), Austin, Texas. My remarks focused on my chambers procedures and courtroom practices. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

February 8, 2001: Commencement Speaker, Austin Police Academy. Austin, Texas. Notes supplied.

- 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.

I have done my best to identify all items called for by this question, including a thorough review of my files and searches of publicly available electronic databases. In my official capacity as U.S. Attorney, I periodically give interviews to local radio, television, and print media reporters. I do not recall all the interviews I have given or the dates on which I gave those interviews. The interviews have centered on particular cases my office has prosecuted during my term and law enforcement initiatives. Quotations from these press releases, press conferences and interviews are often excerpted in multiple media outlets. I located the following formal interviews, press conferences, and press releases listed below:

Sari Horwitz and Joshua Partlow, *Seven U.S. Court Districts Bring Indictments Against Mexican Drug Lord Guzman*, February 24, 2014. Copy supplied.

Mike W. Thomas, *U.S. Prosecutors in S.A. Seeking to Take a Healthy Bite Out of Fraud*, San Antonio Business Journal, January 31, 2014. Copy supplied.

January 27, 2014, KLBJ-AM radio, phone interview with radio reporter about the arrest of defendant Sifinowski. I have no notes, transcripts, or clips.

Marty Schladen, *Corrupt Culture Was Unveiled*, El Paso Times, January 26, 2014. Copy supplied.

November 15, 2013, KLBJ radio, phone interview with radio reporter about the sentence imposed on the Trick or Treat Bandit. I have no notes, transcripts, or clips.

Jazmine Ulloa, *Sequestration & Shutdown Hammering Federal Judiciary*, Austin American Statesman, October 15, 2013. Copy supplied.

Jazmine Ulloa, *Reserve Funding Due to Run Dry for Federal Courts*, Austin American Statesman, October 15, 2013. Copy supplied.

Melissa del Bosque, *Updated: Businessman's Son, Partner Arrested for Bribery in Zeta Money Laundering Trial*, The Texas Observer, September 6, 2013. Copy supplied.

Melissa del Bosque, *Updated: Brother of Zetas Cartel Boss Given Maximum Sentence*, The Texas Observer, September 5, 2013. Copy supplied.

August 20, 2013, KRLD radio, phone interview with radio reporter about 5th Circuit opinion in Abdo case. I have no notes, transcripts, or clips.

Guillermo Contreras, *Federal Prosecution Office in S.A. Reorganized*, San Antonio Express News, January 14, 2013. Copy supplied.

Steven Kreytak, *Prosecutions of Immigrants in Austin Down*, Austin American Statesman, October 7, 2012. Copy supplied.

June 25, 2012, KLBJ radio, phone interview with radio reporter about Dr. Jacoby sentencing. I have no notes, transcripts, or clips.

May 24, 2012, KLBJ radio, phone interview with radio reporter about Abdo guilty verdict. I have no notes, transcripts, or clips.

April 12, 2012, KLBJ radio, phone interview with radio reporter about Dr. Jacoby guilty plea. I have no notes, transcripts, or clips.

Anna Waugh, *The Law West of the Pecos*, Dallas Voice, March 29, 2012. Copy supplied.

Jim Forsyth, *Charges Dismissed Against Soldier Arrested Over Airport*, Reuters, February 17, 2012. Copy supplied.

February 8, 2012, KTSA radio, phone interview with radio reporter about a firearms smuggling case. I have no notes, transcripts, or clips.

December 4, 2011, NPR radio, phone interview with radio reporter John Burnett about migrants and illegal drugs. Transcript supplied.

Steven Kreytak, *Austin's Robert Pitman Sworn in as U.S. Attorney*, Austin American Statesman, October 3, 2011. Copy supplied.

Liz Farmer, *Texan May Be First Openly Gay US Attorney Nominee*, Daily Texan, June 28, 2011. Copy supplied.

John Council, *From the Farmhouse to the Courthouse*, Texas Lawyer, May 3, 2010. Copy supplied.

Todd J. Gillman, *Hutchison Irks Right by Backing Gay Jurist*, The Dallas Morning News, November 1, 2009. Copy supplied.

Steven Kreytak, *Pitman Most "Excellent" Among Austin Judges. Poll Says*, Austin Legal, February 20, 2009. Copy supplied.

Steven Kreytak, *Contractors Face Child Porn Charge*, Austin American Statesman, May 7, 2008. Copy Supplied.

Steven Kreytak, *For SXSIV Stowaway, a Second Misstep*, Austin American Statesman, September 19, 2006. Copy supplied.

Andrea Ball, *Daydream Believers*, Austin American Statesman, July 22, 2006. Copy supplied.

Daniel Stone, *U. Texas Panel Focuses on Death Penalty*, University Wire, June 19, 2006. Copy supplied.

Steven Kreytak, *Behind the Bench, a Man to Be Counted On. New Judge Won Praise for Fairness, Kindness in 13 Years as U.S. Prosecutor*, Austin American Statesman, December 1, 2003. Copy supplied.

*University of Texas Hackers Might Strike Again*, The Houston Chronicle, March 7, 2003. Copy supplied.

Matt Joyce, *Computer Hackers Break Into UT System, Steal Information*, The Associated Press, March 7, 2003. Copy supplied.

*Nation in Brief*, The Washington Post, March 7, 2003. Copy supplied.

Steve Slover, *Federal Investigators Look into Texas Campaign Funds*, The Dallas Morning News, January 5, 2003. Copy supplied.

*Deputy AG Takes Homeland Security Job*, The Associated Press, October 4, 2002. Copy supplied.

David Hafetz, *Federal Trials on the Wane: Why More Suspects Are Cutting Deals: Why More Federal Suspects Pick Deals*, Austin American Statesman, September 22, 2002. Copy supplied.

Corrie MacLaggan, *Central Texas Diary*, Austin American Statesman, September 10, 2002. Copy supplied.

John Council and Mary Alice Robbins, *Task Forces Focus on Prevention, Not Prosecution*, Texas Lawyer, September 9, 2002. Copy supplied.

Scott Huddleston, *Man Charged in Mail Hoax: 'White Powder' Message was Seen on Parcel*, San Antonio Express-News, November 3, 2001. Copy supplied.

*Arab Americans: Profiling Up in the Air*, The Hotline, September 20, 2001. Copy supplied.

Armando Villafranca, *America Responds; Attack Slightly Damages Nation of Islam Mosque*, The Houston Chronicle, September 18, 2001. Copy supplied.

David McLemore, *El Paso Couple Remains in Jail; 2 Accused of Smuggling Uzbek Women, Making Them Work as Strippers*, The Dallas Morning News, August 22, 2001. Copy supplied.

*Crime & Courts News*, San Antonio Express-News, May 1, 2001. Copy supplied.

Jonathan Osborne, *Review Planned for Police Drug Case: President of Officers' Union*, Austin American Statesman, January 31, 2001. Copy supplied.

Andrea Ball, *Jury Convicts Karr in O'Hair Case; Defendant is Found Guilty of Four Counts*, Austin American Statesman, June 3, 2000. Copy supplied.

Andrea Ball, *Karr Defense Takes Aim at Witnesses; Lawyers for Man Charged*, Austin American Statesman, May 6, 2000. Copy supplied.

*O'Hair Kidnap Suspect to Face Charges in Texas*, Fort Worth Star-Telegram, March 17, 2000. Copy supplied.

Andrea Ball, *Cities Take Aim at Gun Crimes*, Austin American Statesman, February 16, 2000. Copy supplied.

Andrea Ball, *Remnants of Bombs Found in North Austin Trash Bin*, Austin American Statesman, January 6, 2000. Copy supplied.

Andrea Ball, *Michigan Man Indicted in Plot to Kidnap O'Hair; Prosecutors Say*, Austin American Statesman, December 8, 1999. Copy supplied.

Andrea Ball, *Case Closed; Resigning Federal Judge Heads for High-Tech Private Practice*, Austin American Statesman, November 11, 1999. Copy supplied.

Clair Osborn, *U.S. Attorney's Office Has New Chief at Austin Helm*, Austin American Statesman, January 6, 1999. Copy supplied.

Tim Barker, Cory Lancaster, *Disney Gay Day Fizzles*, Orlando Sentinel, June 7, 1998. Copy supplied.

Phil Long, *Religious Group Attends Gay Day '98 Christians Evangelize at Disney World*, The Miami Herald, June 7, 1998. Copy supplied.

Mike Schneider, *Gay Couple Test Evangelists in Park*, Associated Press, June 7, 1998. Copy supplied.

Beau Halton, *Gay Day Flight Not Magical*, The Florida Times-Union, June 7, 1998. Copy supplied.

Doug Kalajian, *Gay Day at Disney Quiet Despite Threats; Operation Rescue Protest Outside Park Doesn't Mar Business as Usual Inside*, Palm Beach Post, June 7, 1998. Copy supplied. I have not been able to obtain a copy.

Susan Candiotti, *Operation Rescue Quietly Protests Gay Day at Disney World*, CNN.com, June 6, 1998. Copy supplied.

Mike Schneider, *Evangelists Protest Disney Gay Day*, Associated Press, June 6, 1998. Copy supplied.

Clara G. Herrera, *Former Treatment Center Boss Sentenced for Part in Scandal*, Austin American Statesman, November 8, 1996. Copy supplied.

Clara G. Herrera, *Former Drug Program Director Pleads Guilty to Stealing Money*, Austin American Statesman, September 25, 1996. Copy supplied.

*Briton Who Lived High on Embezzled Millions Going Home to Die*, The Houston Chronicle, December 13, 1995. Copy supplied.

*Police Drop Case Against English AIDS Victim*, Associated Press Worldstream, December 12, 1995. Copy supplied.

Mike Todd, *Austin Car Repairman, Crack Cocaine Dealer Gets 30 Years in Prison*, Austin American Statesman, November 17, 1995. Copy supplied.

Earl Goltz, *Dudov Set High-Rolling Scam in Austin*, Austin American Statesman, March 3, 1995. Copy supplied.

Scott W. Wright, *Speed Ring Supplied Bikers agent Says Hell's*, Austin American Statesman, March 22, 1994. Copy supplied.

*Huskies Declare Hobert Ineligible Over Loan*, The Miami Herald Wire Service, November 11, 1992. Copy supplied.

Press Conferences:

On June 4, 2014, I participated in a press conference with other law enforcement leaders on the emergence of designer drugs. Representative press coverage supplied.

On May 21, 2014, I participated in a press conference for National Missing Children's Day with the United States Marshals Service. Representative press coverage supplied.

On February 11, 2014, I participated in a press conference related to laser strikes against aircraft. Representative press coverage supplied.

On February 7, 2014, I participated in a press conference to announce the guilty plea of the former police chief of the City of Jarrell, Texas to federal bribery charges. Related press release supplied and video recording available at: <http://www.youtube.com/watch?v=ehORXOYY2Y4>.

On September 6, 2013, I participated in a press conference regarding the arrest of three men in connection with a conspiracy to bribe a federal judge. Representative press coverage supplied and video recording available at <http://www.youtube.com/watch?v=WDEf9lBaNbA>.

On September 5, 2013, I participated in a press conference regarding the sentences imposed in *U.S. v. Trevino, et al.* Notes supplied.

On June 26, 2013, I participated in a press conference to announce the arrests of 18 individuals for their roles in a large synthetic drug distribution conspiracy in Central Texas which was part of a national initiative known as Project Synergy. Related press release supplied.

On May 30, 2013, I participated in a press conference to announce the seizure of about 10 kilos of ICE in connection with *U.S. v. Pocasangre, et al.* Representative press coverage supplied.

On May 10, 2013, I participated in a telephone press conference with members of the media to discuss the conviction of four defendants charged in *U.S. v. Trevino et al.*, for their roles in a complex international money laundering conspiracy which used Los Zetas drug proceeds to buy, train, and race American Quarter horses. Related press release and representative press coverage supplied.

On May 9, 2013, I participated in a press conference to announce the conviction of four defendants charged in *U.S. v. Trevino et al.*, for their roles in a complex international money laundering conspiracy which used Los Zetas drug proceeds to buy, train, and race American Quarter horses. Notes supplied.



On April 11, 2013, I participated in a press conference to announce the arrests of 37 individuals for their roles in an Austin based methamphetamine distribution operation. Related press release supplied.

On February 21, 2013, I participated in a press conference to announce the arrest of 19 individuals in connection with a cocaine distribution and bulk cash smuggling conspiracy in Austin, known as Operation Treasure Lost. Related press release supplied.

On October 5, 2012, I participated in a press conference to announce the sentence of Garcia for his role in a fraudulent scheme involving the El Paso Independent School District. Representative press coverage supplied.

On August 10, 2012, I participated in a press conference to announce the sentence imposed on Abdo for plotting to bomb and shoot Ft. Hood soldiers. Representative press coverage supplied.

On June 21, 2012, I participated in a press conference to announce the arrests of 15 individuals in connection with an Austin based heroin distribution operation. Related press release supplied and video recording available at <http://www.kvue.com/news/local/APD-FBI-and-ICE-performing-raid-in-South-Austin-159864845.html>.

On March 14, 2012, I participated in a press conference to discuss *U.S. v Kahey*, a federal criminal case which involved a large cocaine trafficking conspiracy in Central Texas. Related press release supplied and video recording available at <http://www.bing.com/videos/watch/video/14-arrested-in-federal-cocaine-trafficking-bust/1v798fdm4?from=shareembed-vndication&src=v5%253aembed%253asvndication>.

On February 8, 2012, I participated in a press conference to announce the sentences imposed on two men for their roles in a firearms straw purchasing and trafficking investigation. Representative press coverage supplied.

Press Releases:

As Interim United States Attorney for the Western District of Texas in 2001 and as the United States Attorney for the Western District of Texas from October, 2011 to date, I authorized my office to release hundreds of press releases. A list of press releases and copies of those releases are attached.

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.

In October 2003, I was appointed to serve as a magistrate judge of the United States

District Court for the Western District of Texas by the judges of the district court. As a magistrate judge, I presided over a wide variety of federal criminal and civil cases, including pretrial, grand jury, and discovery matters, as well as civil jury trials. I issued reports and recommended decisions on dispositive motions and orders resolving non-dispositive motions in civil cases over which district judges presided. I conducted pretrial proceedings in both civil and criminal cases. I handled all aspects, including trials, of petty offenses and criminal misdemeanors.

As a magistrate judge, most of my caseload consisted of the referral of matters from the district court, with the exception of criminal matters over which I had original jurisdiction (petty offenses and certain misdemeanors) and civil cases in which the parties consented to my jurisdiction pursuant to 28 U.S.C. 636(c). Responses to the following questions distinguish between cases over which I presided versus cases in which I drafted reports and recommendations to the district court. Responses only reflect cases in which filings were made after the institution of the CM/ECF case management system in 2006. Prior filings are not readily searchable or retrievable electronically.

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

I presided over 147 cases that went to verdict or judgment, including civil consent cases and criminal cases with original jurisdiction.

- i. Of these, approximately what percent were:

jury trials:	95%
bench trials:	5%
civil proceedings:	95%
criminal proceedings:	5%

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

Please see attached list.

- 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).

(1) Opportunity Aviation, LLC v. Flight Options, LLC; No. 1:06-cv-00316-RP

This case involved a contract dispute regarding the sale of a partial ownership of an aircraft. The plaintiff had purchased a share of a Beechjet aircraft operated by defendant.

A dispute arose concerning a contractual provision allowing defendant to repurchase plaintiff's share in the aircraft under certain circumstances, as well as the plaintiff's allegations that the defendant was not fulfilling its obligations under the contract. After plaintiff sued in state court, the action was removed to federal court and the defendant filed a counterclaim, alleging that the plaintiff had breached the contract in failing to relinquish its interest in the aircraft. The case was tried to a jury, which found in favor of the defendant. Opinions supplied.

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## Defendant's Counsel:

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 Ray, McChristian & Jeans  
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(2) Loving, et al. v. City of Elgin, et al., No. 1:04-cv-00655-RP

Plaintiffs R. Loving and U. Loving brought suit against the City of Elgin, TX, the Chief of Police and two Elgin police officers, pursuant to 42 U.S.C. §§ 1981, 1983, and 1985. The case arose out of an incident between the plaintiffs and the two defendant Elgin police officers. Plaintiffs' asserted causes of action based on race and color discrimination, assault and battery, respondeat superior and ratification, intentional infliction of emotional distress, false arrest, and negligent hiring, training, supervision and retention of police officers by the City of Elgin. Defendants filed a motion for summary judgment which asserted there was probable cause to arrest U. Loving for disorderly conduct, interference with public duties, and assault by threat. I denied summary judgment for the defendants, concluding that they failed to establish there was probable cause to arrest Mr. Loving. I also denied the defendants' motion for summary judgment on the plaintiffs' claim of inadequate hiring, supervision, training and retention of Elgin police officers. I granted the defendants motion as to the plaintiffs' federal civil rights claim under section 1983 based on malicious prosecution and as to the plaintiffs' state law claims against the City of Elgin for malicious prosecution, false arrest, assault and battery, intentional infliction of emotional distress, and negligent hiring and supervision. Following a jury trial, the jury returned a verdict in favor of the City of Elgin and the two police officers. I entered a final judgment for the defendants on March 10, 2006, and ordered the plaintiffs take nothing by way of the suit. Opinions supplied.

Plaintiffs' Counsel: Bobby Ray Taylor  
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Defendants City of Elgin,  
 Foster and Spence: Archie Carl Pierce  
 Wright & Greenhill  
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Defendant Medrano: Richard W. South  
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(3) Pitonyak v. Pierce, 2011 U.S. Dist. LEXIS 158131 (W.D. Tex. Sept. 29, 2011),  
*adopted by* 2012 U.S. Dist. LEXIS 189976 (W.D. Tex. July 10, 2012), *aff'd by* 732  
 F.3d 525 (5th Cir. 2013).

Mr. Pitonyak was convicted in state court of first-degree murder for the death of Ms. Cave, who was killed in his apartment by a gunshot the morning of August 17, 2005. Pitonyak filed a federal habeas petition alleging that the prosecution violated *Brady v. Maryland*, by failing to disclose an alleged jailhouse confession to the murder by another inmate. After conducting a review of the state court trial and appellate records, I concluded that the undisclosed alleged confession was not material under *Brady*, in that it would not have cast the “whole case in such a different light as to undermine confidence in the verdict,” and recommended that the district court deny relief. The district court adopted my report and recommendations in full and denied relief. The Fifth Circuit Court of Appeals affirmed.

Petitioner Pitonyak: Christopher M. Perri  
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Respondent Pierce: Matthew Dennis Ottoway  
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(4) Arcadian Health Plan, Inc v. PSO Health Services, LLC, et al., No. 1:06-cv-01005-RP.

This case involved spoliation of evidence in a civil suit filed by Arcadian Health Plan. By way of motion, Arcadian sought a judgment on liability on all of their claims due to spoliation of evidence by the defendants. I conducted a hearing on the issue, at which two

defendants did not dispute that their destruction of evidence was wilful and for the sole purpose of interfering with the litigation against them. I found that the corporation was liable for the acts of the two employees and concluded that sanctions were warranted. Due to the severity of the defendants' conduct, I granted the plaintiff's motion to strike the pleadings of the defendants as to liability. I granted in part and denied in part the plaintiff's motion to strike pleadings for spoliation of evidence against the defendants. The order granted the plaintiff's motion to strike pleadings and granted judgment for the plaintiff as to liability. The parties subsequently settled out of court. Opinion supplied.

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Defendants  
Bixler, Box, &

Gerald L. Shiely  
Vaughan E. Waters

Marcinkowska	<p>Thornton Biechlin Segrato Reynolds &amp; Guerra, LC          One International Centre          100 NE Loop 410, Suite 500          San Antonio, TX 78216          (210) 342-5555</p> <p>Malinda Ann Gaul          Gaul and Dumont          924 Camaron Street          San Antonio, TX 78212          (210) 225-0685</p>
Defendants Holguin & De La Rosa	<p>Gerald L. Shiely          Vaughan E. Waters          Thornton Biechlin Segrato Reynolds &amp; Guerra, LC          One International Centre          100 NE Loop 410, Suite 500          San Antonio, TX 78216          (210) 342-5555</p> <p>Thad Harkins          Harkins, Latimer &amp; Dahl PC          405 North St. Mary's Street          Travis Building, Suite 242          San Antonio, TX 78205-1722          (210) 527-0900</p>
Defendants: Saenz, Spencer, Uribio, & Pina	<p>Mary M. Strauss          Gerald L. Shiely          Vaughan E. Waters          Thornton Biechlin Segrato Reynolds &amp; Guerra, LC          One International Centre          100 NE Loop 410, Suite 500          San Antonio, TX 78216          (210) 342-5555</p>

(5) Byrum, et al. v. Landreth, et al., No. 1:07-cv-00344-LY, *rev'd by* 566 F.3d 442 (5th Cir. 2009).

In this case, the plaintiffs were engaged in the practice of interior design and brought an action seeking relief from the defendants, in their official capacities as members of the Texas Board of Architectural Examiners. The plaintiffs contended that the defendants' regulation of the use of the terms "interior design" and "interior designer" violated the plaintiffs' rights under the First Amendment. The question presented in the case was whether the challenged regulation was a permissible regulation of commercial speech under the First Amendment. Both the plaintiffs and the defendants filed motions seeking

summary judgment of the plaintiffs' claims. The plaintiffs also sought a preliminary injunction suspending enforcement of the challenged Texas regulation. I recommended that the district court find that the defendants failed to meet their evidentiary burden of showing the term "interior designer" is inherently misleading and therefore beyond the First Amendment's protection. I concluded that neither the defendants nor the plaintiffs proffered any evidentiary support for their positions regarding the misleading nature of the speech at issue and that genuine issues of material fact existed as to the issues. Accordingly, I recommended that the district court deny the plaintiffs' motions for summary judgment and preliminary injunction and deny the defendants' cross-motions for summary judgment. The district court adopted my recommendation that plaintiffs' motion for preliminary injunction be denied on the ground that they had not shown a substantial likelihood of success on the merits. The plaintiffs subsequently appealed, and the Fifth Circuit found that the district court had abused its discretion by denying the preliminary injunction. The case was remanded to the district court for the enforcement of a preliminary injunction enjoining Texas' regulation of the terms "interior design" and "interior designer." A final judgment was entered by the district court dismissing the claims of all the parties because a new law that addressed and resolved the specific issue in the case had been enacted in the interim, and no case or controversy remained. Opinions supplied.

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## Defendants' Counsel:

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(6) Shelton v. Wise, et al., No. 1:07-cv-00063-RP, *aff'd* by 306 Fed. Appx. 60 (5th Cir. 2009).

This case involved allegations of violations of the Fourth and Fourteenth Amendments. Plaintiff alleged that two officers illegally entered his home and used excessive force in violation of his rights. The defendants moved for summary judgment on the basis of qualified immunity. I granted the defendants' motion for summary judgment as to the claims of illegal entry, but denied the motion as to the use of excessive force. This denial was based on a factual issue concerning the use of force by the defendants. The case subsequently went to a jury trial over which I presided. The jury rendered a verdict in favor of the defendants. The Fifth Circuit affirmed the denial of summary judgment based on qualified immunity. Opinion supplied.

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Matthew Carnes Waddell  
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(7) Craig v. Sheriff Pollock, et al., No. 1:07-cv-00306-RP

Plaintiff brought this case pursuant to 42 U.S.C. § 1983. He alleged that, while incarcerated, excessive force was used by employees of the Sheriff's office. I found the evidence clearly demonstrated that the force used was applied in a good-faith effort to maintain or restore discipline, and that the force was not excessive to the need. The Sheriff's office not only perceived the plaintiff as an escape risk, but also knew him as an inmate who had previously threatened to harm officers when given the opportunity. Based on these facts, I found the officers placing the plaintiff in a new cell were entitled to qualified immunity protection. I recommended that the district court grant the defendants' motion for summary judgment, and decline to exercise supplemental jurisdiction over the plaintiff's state law claims, if any. The district court adopted my report and recommendations following which parties consented for the case to be transferred to me for trial. A jury trial was held after which the jury returned a verdict for the defendants. Opinion supplied.

Pro Se Plaintiff:

L. Craig  
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Defendants' Counsel: Jason Eric Magee  
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Counsel for Defendants  
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(8) Edwards v. Wyatt, No. 1:07-cv-01008-RP

This case was filed in state court and removed on the basis of diversity and federal question jurisdiction. The parties consented to the magistrate court's jurisdiction. The case arose from a business relationship between Wyatt and Edwards, which grew contentious and resulted in claims of breach of contract, tortious interference with business, criminal wiretap, defamation, unjust enrichment, conversion, copyright infringement, fraud, and quantum meruit. I granted summary judgment on the following claims: (1) there was no valid breach of contract claim, because there was no valid contract; (2) there was no tortious interference with a business relationship based on the uncontroverted evidence before the court; (3) there was no unlawful conversion of files, logos, designs, marks, brands and other media, as the property allegedly converted was of an intangible type for which conversion is not recognized; and (4) the Texas criminal statute of theft of services does not provide a basis for civil liability. I also dismissed the plaintiff's claim that Edwards violated the Texas criminal wiretap statute and found that the Texas statute includes a requirement of contemporaneity for the interception of electronic communications and that the allegations in the suit fell outside the statute because the alleged interception did not happen simultaneously with sending of the communications. Following a four-day jury trial, a verdict was returned in favor of Edwards on her claim of defamation. The jury found no liability for any party on all the additional claims. Opinion supplied.

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(9) Drummond American, LLC v. Share Corp, et al., No. 1:08-cv-00661-RP

This case came before the court for a trial by jury on several claims, including claims of breach of contract, misappropriation of trade secrets, conspiracy to misappropriate trade secrets, tortious interference with business relationships, tortious interference with contract, unfair competition and business disparagement. The jury rendered its verdict in favor of the plaintiff as to breach of contract, tortious interference with prospective business relationships, and misappropriation of trade secrets against each of the individual defendants. The jury also found that with the exception of one defendant, the defendants had acted with malice and awarded exemplary damages of \$7.5 million against the corporation and \$5,000 against the individual defendants. I found that the Texas statutory damage cap applied as to punitive damages, and remitted the verdict accordingly. Opinion supplied.

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- (10) Maryland Casualty Co. v. Acceptance Indemnity Insurance Co.,  
No. 1:08-cv-00697-RP, *aff'd* by 639 F.3d. 701 (5th Cir. 2011).

This case arose from Acceptance Indemnity Insurance Company's refusal to defend and indemnify its insured in an underlying lawsuit in Texas State Court. Maryland Casualty Company defended and ultimately settled the underlying lawsuit, then sued Acceptance in diversity to recover Acceptance's share of those costs under theories of contribution and subrogation. The parties consented to magistrate court jurisdiction. Motions for summary judgment were filed by both parties and I ruled Acceptance owed a duty to defend its insured. I then granted Acceptance summary judgment on the contribution claim but denied summary judgment on the subrogation claim, distinguishing a Texas Supreme Court holding. The surviving subrogation claim went to trial and the jury rendered a verdict against Acceptance, which I upheld against Acceptance's post-verdict challenge. The Fifth Circuit affirmed the judgment entered by the court on the verdict in the case. Opinions supplied.

Plaintiff's Counsel:

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- 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.

1) Granados v. Dretke, 1:03-ca-284-ly (Copy supplied.)

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2) Haas v. Cecil, et al., 1:03-cv-00153-ly (Copy supplied.)

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3) Loving v. City of Elgin, et al., 1:04-ca-655-rp (Copy supplied in response to 13c.)

Plaintiffs' Counsel: Bobby Ray Taylor  
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Defendant Medrano: Richard W. South  
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4) Craig v. Sheriff Pollack, et al., No. 1:07-cv-00306-RP (Copy supplied in response to 13c.)

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5) Arcadian Health Plan, Inc. v. PSO Health Services, et al., 1:06-CV-1005-rp  
(Copy supplied in response to 13c.)

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Defendant: William M. Parrish  
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Defendants:  
Saenz, Spencer,  
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6) Shelton v. Wise, et al., 1:07-ca-063-rp (Copy supplied in response to 13c.)

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7) Byrum, et al. v. Landreth, et al., 1:07-ca-344-ly (Copy supplied in response to 13c.)

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8) Holland v. Gexa Corp. et al., 1:05-ca-904-lj, *aff'd in 161 Fed. Appx. 364 (5th Cir. 2005)*. (Copy supplied.)

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9) Williams, et al. v. McKinney, et al., 1:09-ca-009-rp (Copy supplied.)

Plaintiff:  
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of B.L. Williams

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Defendant: Archie Carl Pierce  
 McKinney Mike Thompson, Jr.  
 Wright & Greenhill  
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10) Pitonyak v. Pierce, 2011 U.S. Dist. LEXIS 158131 (W.D. Tex. Sept. 29, 2011), *adopted by* 2012 U.S. Dist. LEXIS 189976 (W.D. Tex. July 10, 2012), *aff'd by* 732 F.3d 525 (5th Cir. 2013).

Petitioner Christopher M. Perri  
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Respondent Matthew Dennis Ottoway  
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e. Provide a list of all cases in which certiorari was requested or granted.

Jennings v. Owens, 2008 WL 2765319 (W.D. Tex. June 6, 2008); 585 F. Supp. 2d 881 (W.D. Tex. 2008), *rev'd* 602 F.3d 652 (5th Cir. 2010), *cert. denied* 132 S. Ct. 2680 (2012).

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.

The following cases over which I presided were reversed by the Fifth Circuit:

Consent cases

Jennings v. Owens, 2008 WL 2765319 (W.D. Tex. June 6, 2008); 585 F. Supp. 2d 881 (W.D. Tex. 2008), *rev'd* 602 F.3d 652 (5th Cir. 2010), *cert. denied* 132 S. Ct.

2680 (2012). Jennings sued state officials under 42 U.S.C. § 1983 challenging sex offender parole conditions that were imposed on him when he was paroled in 2005 after serving a prison sentence for debit card fraud. These conditions on his parole had been enhanced based on a serious sex offense he pleaded guilty to as a minor and for which he had also completed a separate prison sentence in 1988. Jennings claimed that the imposition of these conditions violated his Fourteenth Amendment right to procedural due process. I found that the imposition of sex offender parole conditions violated his right to procedural due process because the conditions constituted a significant departure from the basic conditions of release for crimes other than sex offenses (such as debit card fraud), and he did not receive notice or a hearing prior to the imposition of the conditions. The Fifth Circuit reversed, finding that because Jennings had been convicted of a sex offense in 1979, he did not retain a liberty interest that was infringed in violation of his right to procedural due process when the parole board imposed sex offender special conditions on his parole.

King v. Astrue, No. A-02-CV-068 RP, and Pierce v. Astrue, No. A-02-CV-497 RP, *rev'd Pierce v. Barnhart*, 440 F.3d 657 (5th Cir. 2006). In these consolidated cases, Social Security disability claimants appealed the denial of claimants' applications for attorney fees under the Social Security Act (SSA), 42 U.S.C. § 406(b), and Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). The Fifth Circuit found that the district court correctly denied attorneys' fees under EAJA because plaintiffs' applications were untimely under the EAJA, thus depriving the district court of jurisdiction to consider the merits of the applications. However, the Fifth Circuit concluded that the plaintiffs' second SSA applications should not have been deemed untimely because the district court did not impose a cut-off date on the plaintiffs to refile their applications after their first SSA application. The Fifth Circuit also reversed the denial of attorney's fees. Accordingly, the Circuit Court affirmed in part and reversed and remanded in part. Opinions supplied.

Penson v. Astrue, No. A-03-CV-185 RP, *rev'd* 103 F. App'x 843 (5th Cir. 2004). Penson, on behalf of her minor child, appealed a judgment denying her claim for supplemental security income by an Administrative Law Judge ("ALJ"). I upheld the decision of the ALJ. The Circuit Court found that, in evaluating whether the minor child was disabled within the meaning of the Social Security Act, the ALJ relied upon the credibility of the mother, Penson, but the ALJ then failed to provide the specific reasons for its credibility finding and the significance of that finding on the disability resolution, both necessary for review on appeal. The Circuit Court remanded the case to the Appeals Council, ordering the ALJ to give reasons for the credibility finding and the significance of that finding. Opinion supplied.

### Reports and Recommendations

There may have been cases in which the district court declined to adopt or follow the substantive recommendations in my report and recommendation, but I do not have any specific recollection of any such cases. After consultation with the Clerk of Court, I have confirmed that there is no way to run a comprehensive search of the Court database to document whether reports and recommendations were adopted or not.

The only two cases in which I recall the adoption of my report and recommendation by the district court was subsequently reversed on appeal were:

Reliable Consultants, Inc. v. Earle, A-04-CV-86-LY, *rev'd* by 517 F.3d 738 (5th Cir. 2008); *en banc review denied* by 538 F.3d 355 (5th Cir. 2008). This case involved a challenge to the constitutionality of a Texas statute limiting the number of sexual devices an individual could possess. The plaintiff and plaintiff-intervenor argued that the statute violated their First Amendment commercial speech rights, Fourteenth Amendment substantive and procedural due process rights, and analogous rights under the Texas Constitution. I recommended that the court hold that the use of sexual devices in the privacy of one's home is protected but that the state could limit the right to publicly promote sexual devices. The district court adopted the report and recommendation and granted to the state's motion to dismiss. The Fifth Circuit reversed, holding that the entire statute violated the Fourteenth Amendment of the Constitution. Opinion supplied.

Byrum, et al. v. Landreth, et al., No. 1:07-cv-00344-LY, *rev'd* by 566 F.3d 442 (5th Cir. 2009). In this case, the plaintiffs were engaged in the practice of interior design and brought an action seeking relief from the defendants, in their official capacities as members of the Texas Board of Architectural Examiners. The plaintiffs contended that the defendants' regulation of the use of the terms "interior design" and "interior designer" violated the plaintiffs' rights under the First Amendment. The question presented in the case was whether the challenged regulation was a permissible regulation of commercial speech under the First Amendment. Both the plaintiffs and the defendants filed motions seeking summary judgment of the plaintiffs' claims. The plaintiffs also sought a preliminary injunction suspending enforcement of the challenged Texas regulation. I recommended that the district court find that the defendants failed to meet their evidentiary burden of showing the term "interior designer" is inherently misleading and therefore beyond the First Amendment's protection. I concluded that neither the defendants nor the plaintiffs proffered any evidentiary support for their positions regarding the misleading nature of the speech at issue and that genuine issues of material fact existed as to the issues. Accordingly, I recommended that the district court deny the plaintiffs' motions for summary judgment and preliminary injunction and deny the defendants' cross-motions for summary judgment. The district court adopted my recommendation that plaintiffs' motion for preliminary injunction be denied on the ground that they had not

shown a substantial likelihood of success on the merits. The plaintiffs subsequently appealed, and the Fifth Circuit found that the district court had abused its discretion by denying the preliminary injunction. The case was remanded to the district court for the enforcement of a preliminary injunction enjoining Texas' regulation of the terms "interior design" and "interior designer." A final judgment was entered by the district court dismissing the claims of all the parties because a new law that addressed and resolved the specific issue in the case had been enacted in the interim, and no case or controversy remained. Copy supplied in response to 13c.

- 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.

Of the more than 1,000 opinions and reports and recommendations I have written as a magistrate judge, 77 appear on Westlaw legal databases and 89 appear on the Lexis legal databases. The unpublished opinions are docketed by the Clerk's Office and are available to members of the public via the Court's public access website.

- 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.

To the best of my recollection, the following cases are the cases in which I issued significant opinions or reports and recommendations on federal or state constitutional issues.

Reliable Consultants, Inc. v. Earle, A-04-CV-86-LY, *rev'd* by 517 F.3d 738 (5th Cir. 2008); *en banc review denied* by 538 F.3d 355 (5th Cir. 2008). Copy supplied in response to 13f.

Jennings v. Owens, 2008 WL 2765319 (W.D. Tex. June 6, 2008); 585 F. Supp. 2d 881 (W.D. Tex. 2008), *rev'd* 602 F.3d 652 (5th Cir. 2010), *cert. denied* 132 S. Ct. 2680 (2012).

Walker v. Kaufman, et al., 1:08-ca-381-ly. Copy supplied.

Pitonyak v. Pierce, 2011 U.S. Dist. LEXIS 158131 (W.D. Tex. Sept. 29, 2011), *adopted* by 2012 U.S. Dist. LEXIS 189976 (W.D. Tex. July 10, 2012), *aff'd* by 732 F.3d 525 (5th Cir. 2013).

Loving, et al. v. City of Elgin, et al., No. 1:04-cv-00655-RP. Copy supplied in response to 13c.



Shelton v. Wise, et al., No. 1:07-cv-00063-RP, *aff'd* 306 Fed. Appx. 60 (5th Cir. 2009). Copy supplied in response to 13c.

Craig v. Sheriff Pollock, et al., No. 1:07-cv-00306-RP. Copy supplied in response to 13c.

- 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 sat by designation on a federal court of appeals.

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.

When I assumed office as a magistrate judge, I assessed recusal in accordance with 28 U.S.C. Section 445. I recused myself from all matters that I had handled or supervised while an Assistant United States Attorney. These cases were identified by the District Clerk's office and administratively reassigned to the other magistrate judge in the division. Other than these cases, I did not have occasion to recuse myself from any cases, either at the request of parties or sua sponte, until I was nominated to become United States Attorney, after which I recused myself from the following civil cases to which the United States was a party:

A-11-CV-301 LY *Dessie Maria Andrews v. United States of America*

A-10-CV-471 LY *United States of America v. Randy Jay Chaffee and Esperanza "Hope" Andrade, Texas Secretary of State*

A-11-CV-219 LY *Hilary Crumb v. Michael J. Astrue, Commissioner of the Social Security Administration*

A-10-CV-818 SS *Delois Dunn v. Michael J. Astrue, Commissioner of the Social Security Administration*

A-11-CV-071 LY *Trinidad Hernandez v. Michael J. Astrue, Commissioner of the Social Security Administration*

A-10-CV-331 SS *William Jackson v. Michael J. Astrue, Commissioner of the Social Security Administration*

A-11-CV-292 SS *Ana Jimenez v. Michael J. Astrue, Commissioner of the Social Security Administration*

A-11-CV-484 SS *Kenneth Allen Jones v. Michael J. Astrue, Commissioner of the Social Security Administration*

A-11-CV-495 SS *Dale Bryan Mcneill v. United States of America*

A-11-CV-374 SS *Renita Milam v. Michael J. Astrue, Commissioner of the Social Security Administration*

A-07-CV-714 AWA *Sunrise Mini Mart v. David Roark, Director of the Texas Service Center, et al.*

A-11-CV-448 I.Y *David Scott Trudeau v. United States of America*  
(A-09-CR-084(01)LY)

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..

I was appointed United States Attorney for the Western District of Texas on September 28, 2011, by President Barack Obama. I have not been a candidate for any other elected or appointed non-judicial office.

- 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 been a member of, held office in, nor rendered services to any political party or election committee. I have never held a position or played a role in a political campaign.

Although perhaps not strictly responsive to this question, in the fall of 2000, I appeared as an "extra" in the background of a campaign advertisement for my former colleague Ernest Garcia in his campaign for state district judge. I was not identified in the advertisement, nor did I have a speaking role.

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;

From September 1988 to September 1989, I served as a law clerk to the Honorable David O. Belew, Jr., United States District Judge for the Northern District of Texas.

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

I have never 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.

1989 – 1990  
Fulbright & Jaworski (now Norton Rose Fulbright)  
98 San Jacinto Boulevard  
Austin, Texas 78701  
Associate

1990 – 2001  
United States Attorney's Office for the Western District of Texas  
816 Congress Avenue, Suite 1000  
Austin, Texas 78701  
Assistant U.S. Attorney

1997 – 1998  
Executive Office for U.S. Attorneys, Office of Legal Counsel (now General Counsel)  
600 E Street, NW, Suite 5100

Washington, D.C. 20530  
Attorney Advisor

2001 – 2003  
United States Attorney's Office for the Western District of Texas  
601 Northwest Loop 410, Suite 600  
San Antonio, Texas 78216  
Deputy U.S. Attorney (2001-2003)  
Interim U.S. Attorney (2001)

2011 – Present  
United States Attorney's Office for the Western District of Texas  
601 Northwest Loop 410, Suite 600  
San Antonio, Texas 78216  
United States Attorney

- 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.

No.

b. Describe:

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

Following my judicial clerkship, I practiced civil litigation at Fulbright & Jaworksi (now Norton Rose Fulbright). As a first-year associate, my primary responsibilities included the review and production of documents and discovery, drafting pleadings and legal research.

During my tenure as an Assistant United States Attorney from 1990 to 2001, I handled a broad array of federal criminal matters, including narcotics, financial fraud, firearms, immigration, money laundering, counterfeiting, and gang cases. I was involved in matters from the investigative phase through indictment, pretrial, plea bargain or trial, and, in some cases, on appeal.

During my detail to the Executive Office for U.S. Attorneys from 1997 to 1998, I counseled U.S. Attorneys and Assistant U.S. Attorneys on matters of legal ethics and professional responsibility and represented the Department in cases involving personnel matters. Upon return to my district, I served in a variety of management roles in which I supervised criminal Assistant U.S. Attorneys and served as liaison to law enforcement agencies and courts. As Interim U.S. Attorney, I mobilized the district's

response to the events of September 11, 2001, and formed the first anti-terrorism task force in the Western District of Texas. The task force coordinated the efforts of local, state and federal law enforcement agencies. As Deputy U.S. Attorney, I managed the day to day operations of the district and served as primary advisor to the U.S. Attorney, until I left to be a magistrate judge.

As U.S. Attorney since 2011, I serve as chief federal law enforcement official and supervise an office of approximately 150 Assistant United States Attorneys engaged in criminal prosecution and civil litigation on behalf of the United States.

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

From 1989 to 1990, I represented commercial entities and healthcare professionals in civil litigation.

From 1990 to 2003 and from 2011 to the present, I have represented the United States, its departments and agencies, in criminal and civil litigation.

- 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.

From 1989 to 1990, my practice consisted of litigation and administrative law but I did not appear in court. From 1990 to 1997, my practice was 100% litigation, and I appeared in court virtually daily in criminal matters. In 1997, my practice was approximately 30% litigation. From 1998 to 2001, my practice was 80% litigation and 20% management and supervision. Again, I appeared in court almost daily. From 2001 to 2003, and since 2011, my practice has involved the supervision of litigation, but no personal appearances in court.

- i. Indicate the percentage of your practice in:

1. federal courts:	99%
2. state courts of record:	<1%
3. other courts:	0%
4. administrative agencies:	<1%

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	15%
2. criminal proceedings:	85%

- 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.

While an Assistant United States Attorney, I tried 29 cases to verdict. In 14 of those cases I was lead counsel, and in 15 cases, I was associate counsel.

- i. What percentage of these trials were:
- |              |     |
|--------------|-----|
| 1. jury:     | 97% |
| 2. non-jury: | 3%  |

- 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 of the United States.

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.

In the following cases, I represented the United States at every stage of the litigation.

- (1) U.S. v. Medina, Garza and Garcia, 1:96-CR-048 SS

The Honorable Judge Sam Sparks, U.S. District Court, Western District of Texas.

Date of Representation: March 5, 1996 – October 18, 1996

The three defendants in this case conspired to commit an armed robbery of a delivery truck. Defendants Garza and Medina performed the robbery, hijacking the truck and releasing the driver in a remote location before driving the truck to a location where they were arrested unloading the contents. Garza and Medina were indicted for interference with commerce by threat or violence and interference with commerce by robbery. Garcia and Garza entered guilty pleas and received sentences of 36 and 135

months imprisonment, respectively. Medina went to trial and was convicted on both counts. He received 188 months imprisonment on both counts, served concurrently. I was lead counsel in this case.

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(512) 398-3338

Robert Fiedler  
No longer practicing law  
No address found

(2) U.S. v. Lucien and Campbell, 1:91-CR-057 SS

The Honorable Sam Sparks, U.S. District Court, Western District of Texas

Date of Representation: May 9, 1991 – February 24, 1995

This case involved high-level distributors of cocaine base in the Austin area. Defendants were indicted for conspiracy to possess cocaine base with intent to distribute, and possession with intent to distribute cocaine base, as well as possession of a firearm in connection with a drug trafficking crime. Following separate jury trials, Lucien and Campbell were convicted of drug and firearms offenses and sentenced to 108 and 60 months and 78 and 60 months respectively, the sentences to run consecutively. I was lead counsel in this case.

Opposing Counsel:

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Cornel A. Williams & Associates  
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(3) U.S. v. Foy, 1:91-CR172 SS

The Honorable Sam Sparks, U.S. District Court for the Western District of Texas

Date of Representation: December 18, 1991 – September 18, 1992

This case involved a high-level distributor of cocaine base. The defendant was convicted following a jury trial of conspiracy to possess with intent to distribute cocaine base, possession with intent to distribute cocaine base, possession of marijuana, and using and/or carrying a firearm during and in relation to his drug distribution activity. He was subsequently sentenced to 97 months on each of the cocaine-related counts, 12 months on the marijuana-related count, to be served concurrently, and 60 months on the gun count, to be served consecutively to the drug-related counts. I was lead counsel in this case.

Opposing Counsel:

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George Barton Butts  
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(4) U.S. v. J. Buchanan, Bonner, Anderson and D. Buchanan, 1:93-CR-060 SS

The Honorable Sam Sparks, U.S. District Court, Western District of Texas

Date of Representation: April 6, 1993 – November 10, 1993

This case involved a high-level cocaine distribution conspiracy in which firearms, including machine guns, were used to in furtherance of the conspiracy. The four defendants were indicted on charges including possession with intent to distribute cocaine base, conspiracy to possess cocaine base, use of a firearm during and in relation to drug trafficking, illegal possession of a machine gun, and felon in possession of a firearm. Following a jury trial, defendants were convicted of multiple offenses and sentenced to significant prison terms. Defendant J. Buchanan was sentenced to 360 months on the drug counts and 60 months on the firearm count, to be served consecutively. Defendant Bonner was sentenced to 210 months on the drug counts and 60 months on the firearm count, to be served consecutively. Defendant Anderson was sentenced to 294 months on the drug counts and 60 months on the firearm count, to be served consecutively. Defendant D. Buchanan was sentenced to 293 months on the drug counts. I was co-counsel in this case.

Opposing Counsel:

Arthur L. Jackson (deceased)

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Obii Aham-Neze  
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Houston, TX 77074

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(5) U.S. v. Menn, 1:93-CR-168 SS

The Honorable Sam Sparks, U.S. District Court for the Western District of Texas

Date of Representation: November 16, 1993

This case involved the embezzlement of funds from a savings association, for which the defendant was indicted for wire fraud, conspiracy to misapply savings association funds, and misapplication of savings association funds. The defendant was convicted following jury trial and sentenced to 60 months imprisonment. I was lead counsel in this case.

Opposing Counsel:

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Manning & Manning  
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Taylor, TX 76574  
(512) 352-5515

Robert Cryder (deceased)  
Attorney at Law  
P.O. Box 3594  
Palestine, TX 75802  
(903) 723-7250

(6) U.S. v. Fitzgerald, 1:94-CR-190 SS

The Honorable Sam Sparks, U.S. District Court for the Western District of Texas

Date of Representation: December 6, 1994 – June 18, 1995

This case involved a previously convicted drug dealer who was found in possession of a significant amount of cocaine base. He was indicted on a single count of possession with intent to distribute cocaine base and convicted following a jury trial. He was subsequently sentenced to 210 months of imprisonment. I was lead counsel in this case.

Opposing Counsel:

Alfredo R. Villarreal  
Federal Public Defender  
727 East Cesar Chavez Boulevard, Room B207  
San Antonio, TX 78206

(210) 472-6700

William H. Ibbotson  
Federal Public Defender's Office  
504 Lavaca Street, Suite 960  
Austin, TX 78701  
(512) 916-5025

(7) U.S. v. Monroe et al., 1:92-CR-119- JRN

The Honorable James R. Nowlin, U.S. District Court for the Western District of Texas

Date of Representation: July 23, 1992 – April 30, 1993

This case involved the interdiction of a significant quantity of cocaine and cocaine bases in transit to Austin from Houston. The defendants were indicted for possession of conspiracy to possess with intent to distribute cocaine and cocaine base, and convicted following a jury trial. Defendant S. Monroe was sentenced to 135 months imprisonment, and Defendant K. Monroe, a convicted felon, was sentenced to 151 months imprisonment. I was co-counsel in this case.

Opposing Counsel:

Gregory K. Zaney  
Attorney at Law  
140 Van Nuys Avenue  
Oxnard, CA 93035  
(805) 901-8872

Ginny E. Campa  
Attorney at Law  
P.O. Box 684998  
Austin, TX 78768  
(512) 443-2825

(8) U.S. v Dudov , 1:94-CR-14-JRN

The Honorable James R. Nowlin, U.S. District Court, Western District of Texas

Date of Representation: February 15, 1994 – March 3, 1995

This case involved the procurement of fraudulent immigration documents by an individual who was indicted for bribery of a public official or witness, uttering or using false visas, permits or other entry documents, and unlawful procurement of citizenship or naturalization. Following investigation and extensive pretrial negotiation, the defendant agreed to cooperate and enter a guilty plea to the first two

charges for which he was sentenced to 120 and 60 months, respectively. I was sole counsel in this case.

Opposing Counsel:

Douglas McNabb  
McNabb Associates, P.C.  
Two Allen Center, 1200 Smith Street, Suite 1600  
Houston, TX 77002  
(713) 237-0011

John Andrew Yeager  
Attorney at Law  
1012 Rio Grande Street  
Austin, TX 78701  
(512) 480-9767

Robert M. Rose  
5630 SMU Boulevard  
Dallas, TX 75206  
(214) 696-3333

(9) U.S. v. Ba. Yett and Bu. Yett, 1:CR-95-33-JRN

The Honorable James R. Nowlin, U.S. District Court, Western District of Texas

Date of Representation: March 7, 1995 – November 16, 1995

This case involved brothers, one of whom was a previously convicted felon, who were involved in a conspiracy to distribute a significant quantity of cocaine base. Ba. Yett was indicted for a variety of drug and firearms charges. Ba. Yett entered a guilty plea to possession with intent to distribute cocaine base and a firearms charge, and was sentenced to 360 months and 120 months imprisonment, respectively. Bu. Yett entered a guilty plea to misprision of a felony and was sentenced to 24 months imprisonment. I was sole counsel in this case.

Opposing Counsel:

David B. Fannin  
Assistant Federal Public Defender  
108 North 10th Street  
Alpine, TX 79830  
(432) 837-5598

Stephanie A. Smith  
Fulbright & Jaworski

98 San Jacinto Boulevard, Suite 110  
Austin, TX 78701  
(512) 536-4548

Andrew Shuvalov  
Attorney at Law  
Box 738  
Manor, TX 78653  
(512) 751-8825

M. Carolyn Fuentes  
Office of the Federal Public Defender  
727 East Cesar E. Chavez Boulevard, Suite B207  
San Antonio, TX 78206  
(210) 229-6700

(10) U.S. v. Whittington, 1:96-CR-141-JRN

The Honorable James R. Nowlin, U.S. District Court, Western District of Texas

Date of Representation: August 18, 1996 – March 20, 1997

Mr. Whittington, the former program director of Austin Recovery Center, Austin's largest treatment center for drug and alcohol abuse, pleaded guilty to conspiracy to commit money laundering after an audit revealed that he had misappropriated taxpayer funds intended to help recovering addicts. Whittington and a co-conspirator financed a lavish lifestyle with the proceeds of their embezzlement, and the case led to a statewide re-evaluation of agencies funded through the Texas Commission on Drug and Alcohol Abuse. Whittington was sentenced to a term of imprisonment of five years. I was sole counsel in this case.

Opposing Counsel:

David A. Sheppard  
Attorney at Law  
1304 Nueces Street  
Austin, TX 78701  
(512) 478-9483

William H. Ibbotson  
Federal Public Defender's Office  
504 Lavaca Street, Suite 960  
Austin, TX 78701  
(512) 916-5025

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.)

The most rewarding experience of my legal career was my service as Interim U.S. Attorney during and following the events of September 11, 2001. As Interim U.S. Attorney for a district in which several significant events occurred and unique challenges existed, I was responsible for coordinating the response to emerging events and the planning for contingencies. With my staff, I organized the first Anti-Terrorism Task Forces (now Joint Terrorism Task Forces) and worked to improve cooperation and coordination among federal and state law enforcement agencies within the eight divisions of the district.

Also significant in my legal career was my service on detail to the Office of Legal Counsel (now General Counsel) of the Executive Office for U.S. Attorneys. At that time, the office was charged with providing advice and support to U.S. Attorney's Offices on both personnel and professional responsibility issues, the latter now handled by PRAO. I found especially rewarding the projects involving "putting out fires" in districts that were experiencing particularly urgent and difficult problems.

Finally, I have been privileged to be associated with the University of Texas School of Law and the College of Liberal Arts as an adjunct professor, frequent mock trial and moot court judge, and occasional guest lecturer and panelist at seminars and workshops.

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.

University of Texas School of Law, "Intermediate Civil Trial Skills" (2006 – 2011). Skills course concentrating on pretrial litigation skills and practice. Syllabus attached.

University of Texas, Plan II Honors Program, "Punishment in a Liberal Society" (2002 – 2011). Undergraduate honors seminar exploring the justification for and modes of criminal punishment in a society committed to individual liberty. Syllabus attached.

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.

I have no such anticipated receipts.

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 plans, commitments, or agreements to pursue outside employment if confirmed.

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.

I would be recused from any case I supervised as U.S. Attorney for the Western District of Texas. If any matter were to arise that involved an actual or potential conflict of interest, I would handle it by careful and diligent application of the Code of Conduct for United States Judges as well as other relevant canons and statutory provisions.

- 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 carefully review any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

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



servicing the disadvantaged.” Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Throughout my legal career as a prosecutor and judge I have been prohibited by law or significantly limited in my ability to engage in the practice of law outside government service. However, I have taken advantage of other opportunities to discharge my pro bono obligations, such as mentoring students, and serving on non-profit boards and committees. In particular I have devoted substantial time and effort to mentor and advise students at the University of Texas, both in the Plan II program (an undergraduate honors program) and in the School of Law. I serve as a Community Fellow at the law school, which involves a commitment to attend a variety of formal and informal mentoring events. I have served on the Boards of United Cerebral Palsy, Heritage Society, the Production Team of the Hill Country Ride for AIDS, and the Inclusiveness Taskforce of the United Way. As a judge, I participated in an annual program of the Austin Independent School District to highlight the dangers of drinking and driving, culminating in a mock trial in my court that was filmed and shown to high school students.

**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.

In August 2013, I submitted an application to the Federal Judicial Evaluation Committee formed by Senators Cornyn and Cruz. On November 22, 2013, I was interviewed by the Committee in Houston, Texas. On February 27, 2014, I met with Senators Cornyn and Cruz and their counsel in Washington, D.C. Since February 25, 2014, I have been in contact with officials from the Office of Legal Policy of the Department of Justice. On March 25, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On June 26, 2014, 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.

AO 10  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Pitman, Robert L.	2. Court or Organization U.S. District Court, Western District of Texas	3. Date of Report 06/26/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge (Active)	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination      Date 06/26/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/01/2013 to 05/28/2014
7. Chambers or Office Address 816 Congress Avenue, Suite 1000 Austin, TX 78701		
<b>IMPORTANT NOTES:</b> <i>The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.</i>		

**I. POSITIONS.** *(Reporting individual only; see pp. 9-13 of filing instructions.)*

NONE (No reportable positions.)

	POSITION	NAME OF ORGANIZATION/ENTITY
1	Trustee	Trust #1
2		
3		
4		
5		

**II. AGREEMENTS.** *(Reporting individual only; see pp. 14-16 of filing instructions.)*

NONE (No reportable agreements.)

	DATE	PARTIES AND TERMS
1		
2		
3		

**FINANCIAL DISCLOSURE REPORT**  
Page 2 of 6

Name of Person Reporting Pitman, Robert L.	Date of Report 09/26/2014
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**III. NON-INVESTMENT INCOME.** *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

**A. Filer's Non-Investment Income**

NONE *(No reportable non-investment income.)*

DATE	SOURCE AND TYPE	INCOME <i>(yours, not spouse's)</i>
1		
2		
3		
4		

**B. Spouse's Non-Investment Income** - *If you were married during any portion of the reporting year, complete this section.*  
*(Dollar amount not required except for honoraria.)*

NONE *(No reportable non-investment income.)*

DATE	SOURCE AND TYPE
1	
2	
3	
4	

**IV. REIMBURSEMENTS** - *transportation, lodging, food, entertainment.*  
*(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*

NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2				
3				
4				
5				

**FINANCIAL DISCLOSURE REPORT**  
Page 3 of 6

Name of Person Reporting Pitman, Robert L.	Date of Report 06/26/2014
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**V. GIFTS.** (Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)

NONE (No reportable gifts.)

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1	Exempt		
2			
3			
4			
5			

**VI. LIABILITIES.** (Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)

NONE (No reportable liabilities.)

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1	SWBC Mortgage	Mortgage on Rental Property #1	N
2			
3			
4			
5			

**FINANCIAL DISCLOSURE REPORT**  
Page 4 of 6

Name of Person Reporting Pitman, Robert L.	Date of Report 06/26/2014
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**VII. INVESTMENTS and TRUSTS** – income, value, transactions (includes those of spouse and dependent children: see pp. 34-69 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

	A. Description of Assets (including trust assets)  Place "XX" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
		(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
		Amount Code 1 (A-I)	Type (e.g., div., rest, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-I)	Identity of buyer/seller (if private transaction)
1	Rental Property #1, Austm, TX	D	Rent	O	W					
2	Trust #1, Bank of America Accounts	A	Interest	M	T					
3	University Federal Credit Union Account	A	Interest	L	T					
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										

1. Income Gain Codes: A - \$1,000 or less; B - \$1,001 - \$2,500; C - \$2,501 - \$5,000; D - \$5,001 - \$15,000; E - \$15,001 - \$50,000; F - \$50,001 - \$100,000; G - \$100,001 - \$1,000,000; H - \$1,000,001 - \$5,000,000; I - \$5,000,001 - \$10,000,000; J - \$15,000 or less; K - \$15,001 - \$50,000; L - \$50,001 - \$100,000; M - \$100,001 - \$250,000; N - \$250,001 - \$500,000; O - \$500,001 - \$1,000,000; P1 - \$1,000,001 - \$5,000,000; P2 - \$5,000,001 - \$25,000,000; P3 - \$25,000,001 - \$50,000,000; R - Cost (Real Estate Only); S - Assessment; T - Cash Market; U - Book Value; V - Other; W - Estimated.

**FINANCIAL DISCLOSURE REPORT**  
Page 5 of 6

Name of Person Reporting	Date of Report
Pitman, Robert L.	06/26/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

Rental Property #1 is a garage apartment appurtenant to primary residence. Value listed for Rental Property #1 in Parts VI and VII reflect value of entire property.

**FINANCIAL DISCLOSURE REPORT**

Page 6 of 6

Name of Person Reporting	Date of Report
Pitman, Robert L.	06/26/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/* **Robert L. Pitman**

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

## FINANCIAL STATEMENT

## NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		223	734	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities				Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable - primary residence		342	631
Real estate owned - primary residence		700	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		39	000				
Cash value-life insurance							
Other assets itemize:							
Thrift Savings Plan		552	201				
				Total liabilities		342	631
				Net Worth	1	172	304
Total Assets	1	514	935	Total liabilities and net worth	1	514	935
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							



AFFIDAVIT

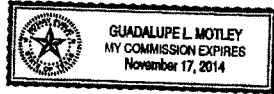
I, ROBERT LEE PITMAN, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

June 26, 2014

(DATE)

Robert Lee Pitman

(NAME)



Guadalupe L. Motley  
(NOTARY)

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).  
Robert William (Trey) Schroeder III
2. **Position**: State the position for which you have been nominated.  
United States District Judge for the Eastern District of Texas
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.  
Patton, Tidwell, Schroeder & Culbertson, L.L.P.  
Post Office Box 5398  
2800 Texas Boulevard  
Texarkana, Texas 75503
4. **Birthplace**: State year and place of birth.  
1966; Texarkana, Texas
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.  
1993 – 1994, Washington College of Law, American University; J.D., 1994  
1990 – 1992, University of Arkansas at Little Rock School of Law; no degree received  
1987 – 1989, University of Arkansas at Little Rock; B.A., 1989  
1984 – 1986, Westminster College; no degree received
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.  
1999 – Present  
Patton, Tidwell, Schroeder & Culbertson, L.L.P.

(formerly Patton, Tidwell & Schroeder, L.L.P. (2003 – 2014); Patton & Tidwell, L.L.P. (2000 – 2002); and Patton, Tidwell & Sandefur, L.L.P. (1999 – 2000))  
2800 Texas Boulevard  
Texarkana, Texas 75503  
Partner (2003 – Present)  
Associate (1999 – 2002)

1997 – 1999  
The Honorable Richard S. Arnold  
Chief Judge  
U.S. Court of Appeals for the Eighth Circuit  
600 West Capitol Avenue  
Little Rock, Arkansas 72201  
Law Clerk

1993 – 1997  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500  
Associate Counsel to the President (May – August 1997)  
Assistant Counsel to the President (1995 – 1996)  
Special Assistant to the Counsel to the President  
(approximately September – October 1995)  
Director of the President's Personal Correspondence (1993 – 1995)

August – November 1992  
Clinton/Gore Presidential Campaign  
Little Rock, Arkansas 72201  
Arkansas Press Secretary

1986 – 1992  
Office of the Governor  
State of Arkansas  
State Capitol Building, Room 250  
Little Rock, Arkansas 72201  
Press Assistant

Other affiliations (uncompensated unless otherwise indicated):

2010 – Present  
Arkansas State Board of Law Examiners  
2100 Riverfront Drive, Suite 110  
Little Rock, Arkansas 72202  
Law Examiner  
(per diem and expense reimbursement)

2008 – Present  
St. James Day School  
5501 North State Line Avenue  
Texarkana, Texas 75503  
Member, Board of Trustees (2008 – Present)  
President (2011 – 2013)  
Treasurer (2010 – 2011)

2011 – Present  
State Bar of Texas District 1 Grievance Committee  
14651 Dallas Parkway, Suite 925  
Dallas, Texas 75254  
Committee Member

2008 – 2011  
Texarkana Bar Association  
Texarkana, Texas  
President (2010 – 2011)  
Vice President (2009 – 2010)  
Secretary (2008 – 2009)

2008 – 2010  
St. James Episcopal Church  
417 Olive Street  
Texarkana, Texas 75503  
Vestry Member (2008 – 2010)  
Senior Warden (2009 – 2010)

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 never served in the military. I did timely register for selective service.

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.

AV Preeminent Rating by Martindale-Hubbell (2010 – Present)

Appreciation Award, Texarkana Bar Association (2011)

University of Arkansas at Little Rock Law Journal (now University of Arkansas at Little Rock Law Review), Member (1992 – 1993)

Jeff Ledbetter Memorial Award for Excellence in Scholarship and Public Policy (now Jeffrey C. Ledbetter Endowed Scholarship), University of Arkansas at Little Rock, Little Rock, Arkansas (1989)

Chancellor's List, University of Arkansas at Little Rock (1989)

Eagle Scout, Caddo Area Council, Texarkana, Texas (1984)

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.

American Bar Association  
Arkansas Bar Association  
Arkansas State Board of Law Examiners  
Arkansas Trial Lawyers Association  
Association of Trial Lawyers of America  
Bar Association of the Fifth Federal Circuit  
Bar Association of the Eighth Federal Circuit  
District 1 Grievance Committee of the State Bar of Texas  
Eastern District of Texas Bar Association  
Harrison County Bar Association  
State Bar of Texas  
Southwest Arkansas Bar Association  
Texarkana Bar Association  
    President (2010 – 2011)  
    Vice President (2009 – 2010)  
    Secretary (2008 – 2009)  
U.S. Magistrate Judge Merit Selection Panel, Marshall, Texas  
U.S. Magistrate Judge Merit Selection Panel, Texarkana, Texas

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.

Arkansas, 1995  
District of Columbia, 1996  
Texas, 2001

There have been no lapses in my memberships.

- 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.

U.S. Court of Appeals for the Eighth Circuit, 1998  
U.S. District Court for the Eastern District of Texas, 1999  
U.S. District Court for the Eastern District of Arkansas, 1999  
U.S. District Court for the Western District of Arkansas, 1999  
U.S. Court of Appeals for the Fifth Circuit, 2001

There have been no lapses in my memberships.

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.

St. James Day School (2008 – Present)  
Member, Board of Trustees (2008 – Present)  
President (2011 – 2013)  
Treasurer (2010 – 2011)  
Head of School Search Committee (2013 – 2014)  
Strategic Planning Committee (2011 – 2012)  
St. James Episcopal Church (1999 – Present)  
Vestry Member (2008 – 2010)  
Senior Warden (2009 – 2010)  
Texarkana Country Club (2002 – Present)

- 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.

The Texarkana Country Club was formed in 1914, and I believe it may have been exclusionary at some point in its history. My family joined in 2002, and the club has not had a policy or practice of discrimination in the years we have been members. To the best of my knowledge, the other organizations listed do not, and have not, 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.

*Public Law – Freedom of Information Act – “Working Papers” Exemption Applies Not Only to Officeholder Personally but to Staff Members and Private Consultants as Well*, 16 U. Ark. Little Rock L.J. 313 (1994). Copy supplied.

- 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.

In *In re Volkswagen AG and Volkswagen of America, Inc.*, an amicus curiae brief was filed on behalf of the Ad Hoc Committee of Intellectual Property Trial Lawyers in the Eastern District of Texas. Along with the other attorneys in my firm, I was listed as a member of the committee on the brief. Although I did not draft or review the brief, I am including it out of an abundance of caution. Copy supplied.

- 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.

None.

- 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.

January 13, 2012: Speaker, “Charge to the Eagle Scout Class of 2011,” Eagle Scout Recognition Banquet, Caddo Area Council, Texarkana, Arkansas. Outline supplied.

June 19, 2002: Speaker, "My Work at the White House," Kiwanis Club of Texarkana, Texarkana, Texas. I discussed my years working in the White House. I have no notes, transcript or recording. The address of the Kiwanis Club of Texarkana is Post Office Box 3074, Texarkana, Texas 75504.

- 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.

I made numerous statements to news organizations regarding various issues during my work as a press assistant in the Arkansas Governor's Office between 1987 and 1992 and in my capacity as Arkansas Press Secretary during the Clinton/Gore presidential campaign in 1992. An exhaustive search of my personal records and various electronic databases revealed the following articles, although it is possible that I may have missed some.

Williamson, Jim, *City of Lockesburg, Railroad Company*, Texarkana Gazette (Mar. 3, 2009). Copy supplied.

Williamson, Jim, *County to Pay to Settle Suit*, Texarkana Gazette (Dec. 17, 2008). Copy supplied.

LaRowe, Lynn, *Lawsuit Alleging 'Inmate Dumping' May Soon be Settled*, Texarkana Gazette (Nov. 30, 2008). Copy supplied.

Associated Press, *Arkansas Disaster Trip Very Painful for Clinton*, Times-News, Twin Falls, Idaho (Mar. 4, 1997) (similar article in multiple sources). Copy supplied.

Fournier, Ron, *Clinton Headed for Sad Homecoming*, AP Online (Mar. 4, 1997) (similar article in multiple sources). Copy supplied.

*First It Was Billy Beer; Now It's Clinton Cola*, Washington Times (Sept. 29, 1996). Copy supplied.

*Bush After Bass; Unintended Snub Put Aright, Girl to Get Letter From Clinton*, Long Beach Press-Telegram (Mar. 6, 1993) (similar article in multiple sources). Copy supplied.

Seper, Jerry, *Arkansas Faces Budget Crisis*, Washington Times (Apr. 7, 1992). Copy supplied.

*Ark. Protest, Tenn. Suit Seek Medicaid Remedies*, The Commercial Appeal, Memphis, Tennessee (Dec. 31, 1991). Copy supplied.



Fournier, Ron, *Disabled Demonstrators Chain Wheelchairs Together in Governor's Office*, AP Online (Dec. 31, 1991). Copy supplied.

Associated Press, *Shortage of Lawyers Delays Ark. Car-Tax Case*, The Commercial Appeal, Memphis, Tennessee (Oct. 16, 1991). Copy supplied.

Associated Press, *Fairchild Gets Hearing Today Petition Seeks Execution Stay*, The Commercial Appeal, Memphis, Tennessee (Aug. 28, 1990). Copy supplied.

Pego, Dave, *North Texas Struggles Against Worst Flooding Since 1922*, AP Online (May 4, 1990). Copy supplied.

*Rain-Swollen Streams Cover Areas of Northwest Arkansas*, Tulsa World (May 4, 1990). 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.

I have not held any judicial office.

- 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.
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:

I have not served as a judge.

- 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.
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.

I was appointed by the Supreme Court of Arkansas to the State Board of Law Examiners in December 2010. My term expires September 30, 2016.

- 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.

From August 1992 to November 1992, I was the Arkansas Press Secretary during President Bill Clinton's first presidential campaign. My responsibilities included coordinating media inquiries and working as a liaison between state media organizations and the national campaign staff and between national media organizations and state officials.

From September 1986 to November 1986, I served as a travel aide for the Clinton for Governor campaign.

From June 1985 to August 1985, I was a staff aide for the Jim Chapman for Congress campaign and assisted with general campaign tasks, including organizing volunteers, stuffing envelopes, staffing phonebanks, and canvassing.

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;

From 1997 to 1999, I served as a law clerk for Chief Judge Richard S. Arnold, U.S. Court of Appeals for the Eighth Circuit.

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

I have never practiced 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.

1995 – 1997  
The White House  
1600 Pennsylvania Avenue, N.W.

Washington, D.C. 20500  
Special Assistant to the Counsel to the President  
(approximately September – October 1995)  
Assistant Counsel to the President (1995 – 1996)  
Associate Counsel to the President (May – August 1997)

1999 – Present  
Patton, Tidwell, Schroeder & Culbertson, L.L.P.  
(formerly Patton, Tidwell & Schroeder, L.L.P. (2003 – 2014); Patton &  
Tidwell, L.L.P. (2000 – 2002); and Patton, Tidwell & Sandefur, L.L.P.  
(1999 – 2000))  
2800 Texas Boulevard  
Texarkana, Texas 75503  
Associate (1999 – 2002)  
Partner (2003 – Present)

- 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 in alternative dispute resolution proceedings.

b. Describe:

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

I served as a lawyer in the White House Counsel's Office from 1995 to 1997. In this position, I analyzed various legal issues and worked on a wide range of matters and miscellaneous projects. By way of example, I worked on executive clemency matters, coordination of the release of documents from the Presidential Libraries and a limited number of litigation matters. I had primary responsibility for handling issues related to the commercialization and use of the President's image and likeness, use of the Presidential Seal, Freedom of Information Act matters, the Presidential Records Act and the John F. Kennedy Assassination Records Review Board. I also assisted on a periodic basis with nominee/appointee vetting and review and gift acceptance review.

After clerking for Judge Richard S. Arnold between 1997 and 1999, I joined Patton, Tidwell, Schroeder & Culbertson, L.L.P. My work has been primarily litigation, representing individuals and corporations in the federal and state courts of Texas and Arkansas. I began as an associate in 1999 and became a partner in 2003. I have represented clients in cases involving trade secrets, antitrust, product liability, patent infringement,

negligence, breach of contract and employment discrimination. While the majority of my practice has been focused on litigation, I also routinely provide counsel to and assist individuals, families and small business owners in discrete transactional matters.

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

During my service in the White House Counsel's Office, my clients were the President of the United States, in his official capacity, and staff members of the Executive Office of the President, in their official capacities.

My clients in private practice have been broad-based and diverse. I have represented individuals and corporations, as plaintiffs and defendants, throughout my practice. My primary focus has been civil litigation. I have also assisted individuals, families and small business owners in discrete transactional matters.

- 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.

The majority of my private practice, well over 90 percent, has been in litigation. I have appeared in court frequently, on average two to three times a month, throughout the years of my practice. While serving as a lawyer in the White House Counsel's Office, I had shared responsibility for a limited number of litigation matters but did not appear in court.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 75% |
| 2. state courts of record:  | 25% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 0%  |

- ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 90% |
| 2. criminal proceedings: | 10% |

- 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 nine cases to verdict, judgment or final decision, including an arbitration proceeding. Six of these were jury trials. I was sole counsel in one trial, co-counsel in five trials and associate counsel in three trials.

- i. What percentage of these trials were:
- |              |     |
|--------------|-----|
| 1. jury:     | 67% |
| 2. non-jury: | 33% |

- 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 of the United States.

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:

- the date of representation;
  - the name of the court and the name of the judge or judges before whom the case was litigated; and
  - the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *Lambert Fenchurch U.S. Holdings, Inc. v. Kerr*, Cause No. 50-T-168-00206-01, an arbitration proceeding before the American Arbitration Association, 2000 – 2003, Fletcher Yarbrough, chair of the arbitration panel.

This matter involved multiple claims between the U.S. subsidiary of an international insurance brokerage firm and its former chief executive officer and other officers. Legal and factual disputes included the value of the officers' ownership shares in the subsidiary, calculation of the chief executive officer's bonuses over several years and whether the chief executive officer had breached contractual and fiduciary obligations to the subsidiary. The issue concerning the value of the officers' shares involved contract interpretation, choice of law and the differences in treatment of goodwill by U.S. and U.K. generally accepted accounting principles. I represented the respondent Kerr and handled all aspects of discovery, briefing and preparing the case for presentation, along with my senior partner, to a panel of three arbitrators. Fletcher Yarbrough of Carrington, Coleman, Sloman & Blumenthal, L.L.P. served as chair.

After a three-day hearing and post-hearing briefing, the panel awarded Kerr the full amount of his requested bonuses and dismissed all other claims between the parties.

Opposing Counsel:

Edward S. Koppman (retired)  
(formerly with Akin, Gump, Stauss, Hauer & Feld LLP)

Chair of Arbitration Panel:

Fletcher L. Yarbrough  
Carrington, Coleman, Sloman & Blumenthal, L.L.P.  
901 Main Street, Suite 5500  
Dallas, TX 75202  
(214) 855-3025

2. *United States of America v. Adcock*, Case No. 5:02-CR-00001-DF-CMC-1, United States District Court for the Eastern District of Texas, 2002, The Honorable David Folsom.

In this criminal matter, I represented the former chief financial officer of a nonprofit organization who was indicted on one count of bank fraud under 18 U.S.C. § 1344 related to her embezzlement of almost \$700,000. The defendant fully cooperated with investigators and went to extraordinary lengths to pay back the nonprofit organization, including liquidating almost all of her and her husband's personal assets. She pleaded guilty and was sentenced to 18 months' incarceration and five years' supervised release.

Opposing Counsel:

The Honorable D. Thomas Ferraro  
(formerly Assistant United States Attorney)  
United States District Court  
Evo A. DeConcini U.S. Courthouse  
405 West Congress Street, Suite 6660  
Tucson, AZ 85701  
(520) 205-4590

Counsel for Opportunities, Inc.:

Winford L. Dunn, Jr.  
Dunn, Nutter & Morgan, LLP  
3601 Richmond Road  
Texarkana, TX 75503  
(903) 793-5651

3. *Stewart v. Gunter, Hot Springs Medical Group, P.A. and Saint Joseph's Regional Health Center, Inc.*, Case No. 2000-586-1, Circuit Court of Garland County, Arkansas, 2000 – 2002, The Honorable John Homer Wright.

My firm represented Mr. and Mrs. Stewart as guardians and next friends of their daughter, who was born in 1998, in this medical negligence case. Plaintiffs alleged that their daughter suffered severe perinatal asphyxia during childbirth, resulting in profound and permanent injuries, and that defendants failed to properly monitor Mrs. Stewart during labor and failed to recognize and respond appropriately to evidence of fetal distress. Shortly after the complaint was filed in 2000, the senior partner in my firm asked me to assume responsibility for development of the case. More than 40 depositions were taken during discovery, approximately half of which were of expert witnesses. The case, which was tried to a jury between October 28 and November 12, 2002, resulted in a defense verdict. As sole counsel at trial, I was responsible for voir dire, opening and closing argument, direct examination of more than 15 fact and expert witnesses and cross-examination of approximately 20 fact and expert witnesses.

Opposing Counsel:

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Justin T. Allen  
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Counsel for Dr. Gunter and Hot Springs Medical Group, P.A.

J. Phillip Malcom  
(formerly with Friday Eldredge & Clark LLP)  
Malcom Law Firm  
2226 Cottondale Lane, Suite 100  
Little Rock, AR 72202  
(501) 319-7669  
Counsel for Dr. Gunter and Hot Springs Medical Group, P.A.

4. *Z-Tel Communications v. SBC Communications, et al*, Case No. 5:03-CV-00229-DF-CMC, United States District Court for the Eastern District of Texas, 2003 – 2005, The Honorable David Folsom.



This matter involved alleged violations of Section 2 of the Sherman Act, the Lanham Act and certain provisions of the Telecommunications Act of 1996. Z-Tel's complaint asserted that SBC had illegally interfered with Z-Tel's ability to compete in the telecommunications industry in contravention of these laws by denying access to essential facilities necessary to provide basic and enhanced telephone services, barring certain customers from switching to Z-Tel and misrepresenting the products and services Z-Tel offered, harming competition and consumers as well. Following extensive discovery and motion practice, the case was resolved by settlement on the eve of trial. Along with co-counsel, I represented Z-Tel, assisting in discovery and participating in hearings before the court.

Lead Counsel:

Layne Kruse  
David Van Susteren (deceased)  
Darryl Anderson  
Fulbright & Jaworski LLP  
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1301 McKinney, Suite 5100  
Houston, TX 77010-3095  
(713) 651-5151

Opposing Counsel:

Michael K. Kellogg  
Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
(202) 326-7902

5. *Pearson v. Moyno, Inc., EnDeCo Engineers, Inc., Cadence Environmental Energy, Inc., Equipment Pro, Inc., Haigh Engineering Company, Ltd. and Ford, Bacon & Davis, LLC*, Case No. CV-2004-27, Circuit Court of Little River County, Arkansas, 2004 – 2006, The Honorable Ted C. Capeheart.

This case involved the death of a 27-year-old father of three who died as a result of injuries he sustained in a liquid waste fuel explosion at a cement plant. I served as counsel for Mr. Pearson's widow in a lawsuit brought on behalf of his estate. Plaintiff alleged that the waste fuel system was designed in a manner that permitted high pressure to generate without an appropriate relief system. As the case progressed, the original defendants added other defendants. Eventually, more than 30 fact and expert witness depositions were taken, and the parties engaged in extensive motion practice and numerous hearings. I handled all aspects of the case. After two formal mediations and multiple settlement negotiations with individual parties over several months, the matter was successfully resolved by settlement.

Opposing Counsel:

Thom J. Diaz  
(formerly with Watts, Donovan & Tilley, P.A.)  
Rainwater Holt & Sexton, PA  
6315 Ranch Drive  
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Ireson & Weizel, PLLC  
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Robert W. Weber  
(formerly with Atchley, Russell, Waldrop & Hlavinka, L.L.P.)  
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(903) 223-5656  
Counsel for Moyno, Inc.

Jeffrey H. Moore  
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Munson, Rowlett, Moore & Boone, P.A.  
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C. Vernon Hartline, Jr.  
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Counsel for Haigh Engineering Company, Ltd.

David M. Powell  
Williams & Anderson, PLC  
111 Center Street, 22nd Floor  
Little Rock, AR 72201  
(501) 396-8806  
Counsel for Burns & McDowell Engineering Co., Inc.

6. *United States of America ex rel. Wright v. AGIP Petroleum Co. et al.*, Case No. 5:10-CV-00155-DF, United States District Court for the Eastern District of Texas, 2004 – 2010, The Honorable David Folsom.

In this False Claims Act case, plaintiff-relator sought to recover damages and civil penalties from certain oil and gas companies for underpayments to the federal government of royalties on oil, gas and natural gas liquids produced from leases on federal and Indian lands. The case had a complicated procedural history. Originally filed in 1996, the case was consolidated with another previously-filed case in a different division, transferred to a Multi-District Litigation Panel in the U.S. District Court for the District of Wyoming, appealed to the U.S. Court of Appeals for the Tenth Circuit and eventually remanded to the Eastern District of Texas. Following remand in 2004, I represented, as co-counsel, Dominion Exploration and Production, Inc. (formerly known as CNG Producing Company) and participated in extensive motion practice, numerous hearings before the court, preparing the case for trial and settlement discussions. The parties were able to resolve the claims against Dominion through settlement.

Co-Counsel:

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Holland & Hart LLP  
Post Office Box 1347  
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Opposing Counsel:

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Sara McLean  
Michael D. Granston  
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Counsel for Intervenor Plaintiff United States of America

Counsel for Other Defendants:

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Counsel for Amoco Production Company, Atlantic Richfield Company, BP Amoco, BP Amoco Corp, BP Exploration & Oil Inc. and Vastar Resources Inc.

James Daniel Thompson, III  
Vinson & Elkins L.L.P.  
1001 Fannin Street, Suite 2500  
Houston, TX 77002-6760  
(713) 758-4502  
Counsel for Anadarko Production Company, Kerr-McGee Corporation and Union Pacific Resources Co.

W. David Carter, Sr.  
Mercy Carter Tidwell, L.L.P.

1724 Galleria Oaks Drive  
Texarkana, TX 75503  
(903) 794-9419  
Counsel for BP Exploration (AK) and BP Exploration (Alaska) Inc.

Craig L. Stahl  
Andrews Kurth LLP  
Waterway Plaza Two  
10001 Woodloch Forest Drive, Suite 200  
The Woodlands, TX 77380  
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Counsel for the Burlington Defendants

Michael P. Graham (retired)  
(formerly with Jones Day)  
Counsel for Chevron Corporation and Chevron, U.S.A. Inc.

J. Robert Beatty  
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2200 Ross Avenue, Suite 2200  
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Craig A. Haynes  
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Shannon H. Ratliff  
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Jefferson Gregory Copeland  
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Counsel for Marathon Oil Company

Damon M. Young  
Law Office of Damon Young  
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(903) 794-1303  
Counsel for Occidental Petroleum Corporation

Daniel M. McClure  
Norton Rose Fulbright  
1301 McKinney, Suite 5100  
Houston, TX 77010-3095  
(713) 651-5159  
Counsel for the Shell Defendants

Phillip T. Bruns (retired)  
(formerly with Gibbs & Bruns LLP)  
Counsel for Union Oil Company of California

7. *Hollis v. Brookshire Grocery Company*, Case No. 5:06-CV-00123-DF-CMC, United States District Court for the Eastern District of Texas, 2006 – 2007, The Honorable David Folsom.

This lawsuit, which was filed by a former grocery store manager, alleged violation of the Age Discrimination in Employment Act. The plaintiff alleged that he was forced to resign because of his age. I represented the plaintiff and handled all aspects of the case, including discovery, briefing and preparation for trial. The court granted defendant's motion for summary judgment, finding that plaintiff could not establish a prima facie case of age discrimination and that defendant had articulated a legitimate, non-discriminatory reason for its actions that plaintiff could not show was pretextual.

Opposing Counsel:

Paul Miller  
Miller, James, Miller & Hornsby, L.L.P.  
1725 Galleria Oaks Drive  
Texarkana, TX 75504-2044  
(903) 794-2711

8. *Zenith Electronics LLC v. Westinghouse Digital Electronics LLC, et al*, Case No. 5:06-CV-00246-DF, United States District Court for the Eastern District of Texas, 2006 – 2010, The Honorable David Folsom.

I represented defendants Westinghouse Digital Electronics and Polaroid Corporation in this patent infringement matter. Zenith alleged the defendants willfully infringed six patents related to digital broadcast television technology. Prior to the court issuing its order construing the claims of the patents, Polaroid filed bankruptcy. Following severance, Zenith proceeded against Westinghouse. Shortly before trial, Westinghouse sold its assets to a credit management association, a bankruptcy-like procedure under California law. The association discharged Westinghouse's attorneys and ceased its defense of the case. The court granted Zenith's motion for summary judgment on infringement, willfulness and damages and entered judgment against Westinghouse. My involvement in the case included assisting in discovery and extensive motion practice.

Co-Counsel:

Michael H. Baniak  
 (formerly with McDonnell Boehnen Hulbert & Berghoff )  
 Seyfarth Shaw LLP  
 131 South Dearborn Street, Suite 2400  
 Chicago, IL 60603-5577  
 (312) 460-5387  
 Counsel for Polaroid and Petters Group Worldwide, LLC

Gary E. Hood  
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 161 North Clark Street, Suite 4200  
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Counsel for V, Inc.

9. *LML Patent Corp. v. J.P. Morgan Chase & Co., et al.*, Case No. 2-08-CV-448-DF, United States District Court for the Eastern District of Texas, 2008 – 2012, The Honorable David Folsom.

In this multi-phase patent case, plaintiff alleged that defendants' products and services infringed plaintiff's patent involving a point-of-sale check-writing system. Defendants included PayPal, Inc. and major regional and national banks. I represented PayPal in the first phase and Deutsche Bank Trust Company Americas in a later phase. I participated, as co-counsel, in all aspects of the case, including discovery and arguing motions. Both parties I represented settled on the eve of trial. Prior to PayPal settling, I was preparing to conduct voir dire and the direct and cross-examination of several fact witnesses. In the Deutsche Bank trial, I was preparing to assist in voir dire and in the damages part of the case.



Lead Co-Counsel:

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Counsel for Northern Trust Corporation

10. *St. Jude Medical, Inc. v. Access Closure, Inc.*, 729 F.3d 1369 (Fed. Cir. Sept. 11, 2013); Case No. 4:08-CV-04101-SOH, United States District Court for the Western District of Arkansas, 2008 – Present, The Honorable Harry F. Barnes and the Honorable Susan O. Hickey.

This patent infringement case involves multiple patents related to vascular closure devices, which are used by physicians to close punctures in the femoral artery after diagnostic and interventional cardiovascular procedures. St. Jude alleged that defendant infringed its patents. The case was tried over two weeks in late 2010. The jury found willful infringement of two patents and awarded St. Jude lost profits and reasonable royalty damages. Thereafter, in 2011, Judge Harry Barnes conducted a bench trial regarding whether a legal exception to one of Access Closure, Inc.'s defenses applied. The court entered judgment in 2012 and later issued a permanent injunction, staying relief while the case was on appeal to the Federal Circuit. In September 2013, the Federal Circuit affirmed in part and reversed in part the judgment. I represent St. Jude and participated in multiple discovery matters and all dispositive-motion and pre-trial hearings before the district court.

Lead Counsel:

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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.)

While in private practice, my focus has been litigation. I also have served on several boards and committees related to the law and legal profession.

In December 2010, I was appointed by the Arkansas Supreme Court to the State Board of Law Examiners. The board, charged with grading bar examinations and certifying the results, meets twice annually, in March and August. Each of these grading sessions lasts approximately one week. The board also meets periodically throughout the year as the need arises, most often related to admission panel hearings. My term will expire September 30, 2016.

I also am a member of the State Bar of Texas District 1 Grievance Committee. Grievance committees play an important role in Texas's attorney disciplinary system by performing two functions. First, the committee reviews complaints presented by the Chief Disciplinary Counsel of the Commission for Lawyer Discipline and determines whether a case should proceed to prosecution or be dismissed. Second, the committee, sitting as an administrative tribunal, determines whether professional misconduct has occurred and, if so, assesses an appropriate sanction. The committee meets monthly. I was appointed in July 2011 and reappointed to a second term in May 2014. My current term will expire June 30, 2017.

The United States District Court for the Eastern District of Texas has also appointed me to two merit selection panels that have advised the court concerning the selection of magistrate judges. The first panel reviewed 55 applications for an open position, interviewed 11 candidates and recommended that the court consider six applicants for the appointment. The court ultimately selected one of the candidates recommended by the panel. The second panel evaluated the performance of a sitting magistrate judge and recommended her for reappointment.

I have been actively involved in the Texarkana Bar Association throughout the years of my practice. I served as secretary from 2008 to 2009, vice president from 2009 to 2010 and president from 2010 to 2011. The Texarkana Bar and its affiliate organization, the Texarkana Young Lawyers Association, make significant contributions to the community through outreach and educational initiatives about our system of justice. The bar also offers periodic continuing legal education programs to its members and financially supports other organizations within our community.

I have performed no lobbying activities on behalf of any client or organization.

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.

Upon retirement and age qualification, I will be entitled to receive benefits from a retirement plan established by my firm and to which I have contributed. Should I be confirmed, my partners and I will develop a plan to address any pending litigation in which I am involved and any potential payments due to me. Otherwise, I have no deferred income or future benefits arrangements from any previous relationships.

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 plans, commitments or agreements to pursue outside employment if confirmed.

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 will carefully review and address any real or potential conflicts in accordance with the Code of Conduct for United States Judges, as well as applicable policies and procedures of the United States Courts and other relevant canons and statutory provisions. I will recuse myself from any case in which I have previously participated as an attorney and in any case in which my firm was involved while I was a member of the firm. I am unaware of any individuals, whether relatives or otherwise, who would be likely to present a conflict of interest.

- 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 comply with the Code of Conduct for United States Judges, all applicable policies and procedures of the United States Courts, and other relevant canons and statutory provisions. I will review, on a case-by-case basis, the existence of a potential conflict of interest arising from any personal or former client relationships or financial interests, and will apply generally applicable principles and rules concerning ethics and conflicts of interests in conducting such an inquiry and assessing whether a recusal is warranted.

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.

I have provided pro bono services throughout my practice. While I have not maintained specific records of time spent, I estimate that I have spent in excess of 150 hours a year

providing pro bono services. I have assisted individuals and families in matters such as adoption, ad litem, divorce, probate, guardianship, criminal, real estate, contract disputes and small claims litigation. Listed below are a few examples of the types of pro bono cases I have handled.

Between 2006 and 2009, I represented the City of Lockesburg, Arkansas in connection with a dispute between it and the DeQueen & Eastern Railroad Company concerning the destruction of an overpass bridge in Lockesburg that occurred when a 75-car train owned and operated by the railroad derailed in 2005. After considerable legal and historical research, time and effort, I filed, on behalf of the City of Lockesburg, a formal administrative complaint with the Arkansas State Highway Commission, a jurisdictional prerequisite to filing a lawsuit. While the matter was pending before the Highway Commission, the parties were able to enter into a settlement agreement that successfully resolved the dispute.

In 2008, I handled an adoption for a longtime personal friend who, through her church, became acquainted with a young boy from a troubled home. The child was eventually removed from the home by social services officials. My friend wanted to adopt him, and I represented her throughout the adoption proceedings in the County Court at Law of Bowie County, Texas. I also have regularly provided legal assistance to guardianship clients of a local nonprofit organization that provides services to developmentally disabled children and adults.

In 2006, I defended the Texarkana Animal League in an employment discrimination case brought by a former employee. *Jerry Edwards v. Roy Stanley, Director, Texarkana Animal League*, Case No. 4:06-CV-04034, U.S. District Court for the Western District of Arkansas. The plaintiff alleged that he was terminated in violation of Title VII of the Civil Rights Act of 1964. I filed an answer on behalf of the Texarkana Animal League, interviewed multiple witnesses, reviewed documents and ultimately filed a motion to dismiss. The case was dismissed in December 2006 for failure to prosecute and failure to comply with orders of the court.

In 2011 and 2012, I assisted with fundraising for the Arkansas Access to Justice Commission and its nonprofit organization, the Arkansas Access to Justice Foundation. The goal of the foundation is to increase the financial and pro bono resources available to Arkansas's two legal aid providers, the Center for Arkansas Legal Services and Legal Aid of Arkansas.

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 August 9, 2013, I submitted an application to the Federal Judicial Evaluation Committee established by Senators John Cornyn and Ted Cruz. On December 13, 2013, I was interviewed by the Committee in Houston, Texas. On February 18, 2014, I was invited to interview with Senators Cornyn and Cruz. Since February 26, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On March 13, 2014, I was interviewed by Senators Cornyn and Cruz in Washington, D.C. On April 7, 2014, I was interviewed by attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On June 26, 2014, 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.



AO 10  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Schroeder III, Robert W.	2. Court or Organization U.S. District Court for the Eastern District of Texas	3. Date of Report 06/26/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Judge	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination      Date 06/26/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/01/2013 to 06/12/2014
7. Chambers or Office Address Patton, Tidwell, Schroeder & Culbertson, L.L.P. 2800 Texas Boulevard Post Office Box 5398 Texarkana, Texas 75503		
<b>IMPORTANT NOTES:</b> <i>The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.</i>		

**I. POSITIONS.** *(Reporting individual only; see pp. 9-13 of filing instructions.)*

NONE *(No reportable positions.)*

POSITION	NAME OF ORGANIZATION/ENTITY
1. Partner	Patton, Tidwell, Schroeder & Culbertson, L.L.P.
2. Member	Arkansas State Board of Law Examiners
3. Member	State Bar of Texas District I Grievance Committee
4. Officer/Member	St. James Day School Board of Trustees
5.	

**II. AGREEMENTS.** *(Reporting individual only; see pp. 14-16 of filing instructions.)*

NONE *(No reportable agreements.)*

DATE	PARTIES AND TERMS
1.	
2.	
3.	

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting Schroeder III, Robert W.	Date of Report 06/26/2014
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**III. NON-INVESTMENT INCOME.** (Reporting individual and spouse; see pp. 17-24 of filing instructions.)

**A. Filer's Non-Investment Income**

NONE (No reportable non-investment income.)

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2014	Patton, Tidwell, Schroeder & Culbertson, L.L.P., law firm income	\$0.00
2. 2013	Patton, Tidwell & Schroeder, L.L.P., law firm income	\$73,471.94
3. 2012	Patton, Tidwell & Schroeder, L.L.P., law firm income	\$184,535.00
4.		

**B. Spouse's Non-Investment Income** - If you were married during any portion of the reporting year, complete this section.  
(Dollar amount not required except for honoraria.)

NONE (No reportable non-investment income.)

DATE	SOURCE AND TYPE
1.	
2.	
3.	
4.	

**IV. REIMBURSEMENTS** - transportation, lodging, food, entertainment.  
(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

NONE (No reportable reimbursements.)

	SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1.	Exempt				
2.					
3.					
4.					
5.					

**FINANCIAL DISCLOSURE REPORT**  
Page 3 of 7

<b>Name of Person Reporting</b> Schroeder III, Robert W.	<b>Date of Report</b> 06/26/2014
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**V. GIFTS.** *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

NONE *(No reportable gifts.)*

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1. Exempt			
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*

NONE *(No reportable liabilities.)*

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.			
2.			
3.			
4.			
5.			

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<b>Name of Person Reporting</b> Schroeder III, Robert W.	<b>Date of Report</b> 06/26/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-40 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

1.	A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
		(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
		Amount Code 1 (A-H)	Type (e.g., div., rest, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
1.	Capital One Account	A	Interest	N	T	Exempt				
2.	Bank of Ozarks Account	B	Interest	N	T	Exempt				
3.	Commercial National Accounts	A	Interest	N	T	Exempt				
4.	Wells Fargo Accounts	A	Interest	M	T	Exempt				
5.	Guaranty Bond Accounts	B	Interest	N	T	Exempt				
6.	SEP #1									
7.	American Funds The Bond Fund of America	A	Dividend	K	T	Exempt				
8.	American Funds Capital Income Building	A	Dividend	K	T	Exempt				
9.	American Funds Capital World Growth & Income Fund	B	Dividend	L	T	Exempt				
10.	American Funds Europacific Growth Fund	A	Dividend	K	T	Exempt				
11.	American Funds The Growth Fund of America	D	Dividend	L	T	Exempt				
12.	American Funds New Perspective Fund	B	Dividend	K	T	Exempt				
13.	American Funds Washington Mutual Investors Fund	B	Dividend	K	T	Exempt				
14.	GI8 529 Moderate Growth Portfolio		None	K	T	Exempt				
15.	403(b) #1									
16.	-Lincoln Financial Multi-Fund Select Annuity Fixed Account	A	Dividend	J	T	Exempt				
17.	-Lincoln Financial LVIP Protected Profile 2020 Fund	B	Dividend	J	T	Exempt				

1. Income Gain Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000  
 (See Columns B1 and D4) F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H=\$1,000,001 - \$5,000,000; I=\$5,000,001 - \$15,000,000; J=\$15,000,001 - \$50,000,000; K=\$50,000,001 - \$1,000,000,000; L=\$1,000,001 - \$100,000; M=\$100,001 - \$250,000; N=\$250,001 - \$500,000; O=\$500,001 - \$1,000,000; P=\$1,000,001 - \$5,000,000; Q=\$5,000,001 - \$25,000,000; R=\$25,000,001 - \$50,000,000; S=\$50,000,001 - \$25,000,000,000; T=Cash Market

2. Value Codes (See Columns C1 and D3): A=\$1,000 or less; B=\$1,001 - \$100,000; C=\$100,001 - \$1,000,000; D=\$1,000,001 - \$5,000,000; E=\$5,000,001 - \$15,000,000; F=\$15,000,001 - \$50,000,000; G=\$50,000,001 - \$1,000,000,000; H=\$1,000,000,001 - \$5,000,000,000; I=\$5,000,000,001 - \$25,000,000,000; J=\$25,000,000,001 - \$50,000,000,000; K=Appraisal; L=Book Value; M=Cash Market; N=Crop (Real Estate Only); O=Other; P=Assessment; Q=Estimated

3. Value Method Codes (See Column C2): A=\$1,000 or less; B=\$1,001 - \$100,000; C=\$100,001 - \$1,000,000; D=\$1,000,001 - \$5,000,000; E=\$5,000,001 - \$15,000,000; F=\$15,000,001 - \$50,000,000; G=\$50,000,001 - \$1,000,000,000; H=\$1,000,000,001 - \$5,000,000,000; I=\$5,000,000,001 - \$25,000,000,000; J=\$25,000,000,001 - \$50,000,000,000; K=Appraisal; L=Book Value; M=Cash Market; N=Crop (Real Estate Only); O=Other; P=Assessment; Q=Estimated

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Schröder III, Robert W.	<b>Date of Report</b> 06/26/2014
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**VII. INVESTMENTS and TRUSTS** – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
18. IRA #1										
19. -WMT Stock (common)	A	Dividend			Exempt					
20. -TGT Stock (common)	A	Dividend			Exempt					
21. -SPY Stock (common)	A	Dividend			Exempt					
22. Red River FCU Accounts	A	Dividend	J	T	Exempt					

1. Income Gain Codes:  
(See Columns B1 and D4)
2. Value Codes  
(See Columns C1 and D3)
3. Value Method Codes  
(See Column C2)
- |                                  |                             |                               |                                |                                 |
|----------------------------------|-----------------------------|-------------------------------|--------------------------------|---------------------------------|
| A = \$1,000 or less              | B = \$1,001 - \$2,500       | C = \$2,501 - \$5,000         | D = \$5,001 - \$15,000         | E = \$15,001 - \$50,000         |
| F = \$50,001 - \$100,000         | G = \$100,001 - \$1,000,000 | H = \$1,000,001 - \$5,000,000 | I = \$5,000,001 - \$10,000,000 | J = More than \$5,000,000       |
| J = \$15,000 or less             | K = \$15,001 - \$50,000     | L = \$50,001 - \$100,000      | M = \$100,001 - \$250,000      | N = \$250,001 - \$500,000       |
| N = \$250,001 - \$500,000        | O = \$500,001 - \$1,000,000 | P = \$1,000,001 - \$5,000,000 | Q = \$5,000,001 - \$25,000,000 | R = \$25,000,001 - \$50,000,000 |
| P3 = \$25,000,001 - \$50,000,000 | Q = Appraisal               | R = Cost (Real Estate Only)   | S = Assessment                 | T = Cash Market                 |
| U = Book Value                   | V = Other                   | W = Estimated                 |                                |                                 |

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
Schroeder III, Robert W.	06/26/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

The name of my firm changed in 2014. The change is reflected in Block 7, Section I and Section III.A.

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
Schroeder III, Robert W.	06/26/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: **s/ Robert W. Schroeder III**

**NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)**

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

## FINANCIAL STATEMENT

## NET WORTH

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

ASSETS			LIABILITIES				
Cash on hand and in banks (incl. CDs)	1	719	859	Notes payable to banks-secured (auto)		15	056
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		314	451	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable			
Real estate owned – see schedule		565	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		145	027				
Cash value-life insurance							
Other assets itemize:							
				Total liabilities		15	056
				Net Worth	2	729	281
Total Assets	2	744	337	Total liabilities and net worth	2	744	337
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							



**FINANCIAL STATEMENT****NET WORTH SCHEDULES**Listed Securities

Ameren Corp. stock	\$ 114
American Funds Bond Fund of America	29,084
American Funds Capital Income Builder Fund	28,304
American Funds Capital World Growth & Income Fund	63,530
American Funds EuroPacific Growth Fund	16,749
American Funds Growth Fund of America	81,596
American Funds New Perspective Fund	19,506
American Funds Washington Mutual Investors Fund	45,263
GIFT College Investing Plan Moderate Growth Portfolio	16,461
Lincoln Financial Multi-Fund Select Annuity Fixed Account	1,181
Lincoln Financial LVIP Protected Profile 2020 Fund	12,663
Total Listed Securities	<u>\$ 314,451</u>

Real Estate Owned

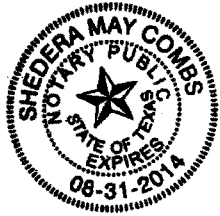
Personal residence	\$ 215,000
Vacation property	<u>350,000</u>
Total Real Estate Owned	<u>\$ 565,000</u>

AFFIDAVIT

I, Robert William Schroeder III, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

June 26, 2014  
(DATE)

Robert W Schroeder III  
(NAME)



Shedera May Combs  
(NOTARY)

**Senator Grassley  
Questions for the Record**

**Jorge Alonso,  
Nominee, U.S. District Judge for the Northern District of Illinois**

1. In *People v. Barnes*, the Illinois appellate court reversed and remanded your dismissal of the defendant's post-conviction petition. The appellate court wrote, "the trial court made a speculative attempt to reconstruct the jury's deliberations and divine its unexpressed conclusions, the kind of speculation our supreme court expressly disapproved in *People v. Mack*."
  - a. Can you respond to the Court's critique?
  - b. Did your analysis consider the precedent in *People v. Mack*? If so, did you view that case as distinguishable? If not, why not?
2. What is the most important attribute of a judge, and do you possess it?
3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
4. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
5. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
6. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
7. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
8. In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community", in determining the meaning of the Constitution? Please explain.
9. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?

10. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
11. If confirmed, how do you intend to manage your caseload?
12. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?
13. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.
14. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
15. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.
  - a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>
    - i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.
    - ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?
    - iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
    - iv. Are you committed to upholding this precedent?
  - b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.

- i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court's opinion full force and effect?
  - c. Justice Kennedy also wrote, "The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens."<sup>3</sup>
    - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court's opinion full force and effect?
  - d. Justice Kennedy wrote, "The definition of marriage is the foundation of the State's broader authority to regulate the subject of domestic relations with respect to the '[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.'"<sup>4</sup>
    - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court's opinion full force and effect?
  - e. Justice Kennedy wrote, "The significance of state responsibilities for the definition and regulation of marriage dates to the Nation's beginning; for 'when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.'"<sup>5</sup>
    - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court's opinion full force and effect?
16. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: "To increase the number

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

<sup>5</sup> *Id.* (internal citations omitted).

of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator's judicial selection committees".

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.
  - b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
17. Please describe with particularity the process by which these questions were answered.
  18. Do these answers reflect your true and personal views?

**Senator Grassley  
Questions for the Record**

**John Blakey,  
Nominee, U.S. District Judge for the Northern District of Illinois**

1. You have criticized the 5<sup>th</sup> Circuit's decision in *Heller Financial v. Gramco Computer Sales*, a case involving RICO. This Circuit would not be binding precedent over you, if you were confirmed.
  - a. Can you describe for the Committee the general facts and holding in this case and explain why you consider this to be a bad ruling?
  - b. How would you approach RICO cases, if confirmed?
2. What is the most important attribute of a judge and do you possess it?
3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
4. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
5. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
6. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
7. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
8. In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community", in determining the meaning of the Constitution? Please explain.
9. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?

10. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
11. If confirmed, how do you intend to manage your caseload?
12. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?
13. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?
14. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
15. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.
  - a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>
    - i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.
    - ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?
    - iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
    - iv. Are you committed to upholding this precedent?
  - b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.



- i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court's opinion full force and effect?
- c. Justice Kennedy also wrote, "The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens."<sup>3</sup>
  - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court's opinion full force and effect?
- d. Justice Kennedy wrote, "The definition of marriage is the foundation of the State's broader authority to regulate the subject of domestic relations with respect to the '[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.'"<sup>4</sup>
  - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court's opinion full force and effect?
- e. Justice Kennedy wrote, "The significance of state responsibilities for the definition and regulation of marriage dates to the Nation's beginning; for 'when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.'"<sup>5</sup>
  - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

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16. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.
  - a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.
  - b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
17. Please describe with particularity the process by which these questions were answered.
18. Do these answers reflect your true and personal views?

**Senator Grassley  
Questions for the Record**

**Amos Mazzant,  
Nominee, U.S. District Judge for the Eastern District of Texas**

1. Has your experience as an appellate judge impacted the way you approach cases as a magistrate judge? Please explain how you made that transition.
2. What is the most important attribute of a judge, and do you possess it?
3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
4. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
5. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
6. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
7. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
8. In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.
9. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?
10. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
11. If confirmed, how do you intend to manage your caseload?
12. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?

13. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.
14. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
15. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.
  - a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>
    - i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.
    - ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?
    - iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
    - iv. Are you committed to upholding this precedent?
  - b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>
    - i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court’s opinion full force and effect?

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.

- c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>
    - i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
  - d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the [p]rotection of offspring, property interests, and the enforcement of marital responsibilities.”<sup>4</sup>
    - i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
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  - e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>
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- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

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individuals you had contact with, the dates of the contacts, and the subject matter of the communications.

- b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
17. Please describe with particularity the process by which these questions were answered.
18. Do these answers reflect your true and personal views?

**Senator Grassley  
Questions for the Record**

**Robert Pitman,  
Nominee, U.S. District Judge for the Western District of Texas**

1. You were reversed in *Jennings v. Owens*. The Fifth Circuit held that the plaintiff did not show he had a liberty interest that was infringed in violation of his rights.
  - a. What factors did you consider in this case?
  - b. In retrospect, do you agree with the Fifth Circuit's ruling?
2. What is the most important attribute of a judge, and do you possess it?
3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
4. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
5. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
6. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
7. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
8. In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community", in determining the meaning of the Constitution? Please explain.
9. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?
10. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?

11. If confirmed, how do you intend to manage your caseload?
12. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?
13. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.
14. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
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  - a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>
    - i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.
    - ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?
    - iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
    - iv. Are you committed to upholding this precedent?
  - b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>
    - i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.



- ii. Will you commit to give this portion of the Court’s opinion full force and effect?
- c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>
  - i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
- d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>
  - i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
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<sup>3</sup> *Id.* 2691.

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<sup>5</sup> *Id.* (internal citations omitted).

judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator's judicial selection committees".

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.
  - b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
17. Please describe with particularity the process by which these questions were answered.
  18. Do these answers reflect your true and personal views?

**Senator Grassley  
Questions for the Record**

**Robert William Schroeder III,  
Nominee, U.S. District Judge for the Eastern District of Texas**

1. How has your experience in the White House Counsel's office shaped your legal career? How do you anticipate it will affect your career as a judge, if confirmed?
2. What assurances can you provide the committee that you will administer justice in an impartial manner, even when a litigant may have personal beliefs or political views that are different from yours?
3. Your questionnaire indicates that the majority of your practice has been in civil litigation. If confirmed, what steps will you take to familiarize yourself with criminal law?
4. What is the most important attribute of a judge, and do you possess it?
5. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
6. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
7. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
8. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
9. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
10. In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community", in determining the meaning of the Constitution? Please explain.
11. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?

12. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
13. If confirmed, how do you intend to manage your caseload?
14. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?
15. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?
16. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
17. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.
  - a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>
    - i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.
    - ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?
    - iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
    - iv. Are you committed to upholding this precedent?
  - b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.

- i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court's opinion full force and effect?
- c. Justice Kennedy also wrote, "The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens."<sup>3</sup>
  - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court's opinion full force and effect?
- d. Justice Kennedy wrote, "The definition of marriage is the foundation of the State's broader authority to regulate the subject of domestic relations with respect to the '[p]rotection of offspring, property interests, and the enforcement of marital responsibilities."<sup>4</sup>
  - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court's opinion full force and effect?
- e. Justice Kennedy wrote, "The significance of state responsibilities for the definition and regulation of marriage dates to the Nation's beginning; for 'when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States."<sup>5</sup>
  - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court's opinion full force and effect?

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

<sup>5</sup> *Id.* (internal citations omitted).

18. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.
  - a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.
  - b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
19. Please describe with particularity the process by which these questions were answered.
20. Do these answers reflect your true and personal views?

Questions for the Record  
Senator Ted Cruz

Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.

Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?

If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?

Explain whether you agree that "State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power." *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).

Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?

What are the judicially enforceable limits on the President's ability to issue executive orders or executive actions?

When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?

When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?

Do you "expect that [15] years from now, the use of racial preferences will no longer be necessary" in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).

Senator Grassley  
Questions for the Record

Jorge Alonso,  
Nominee, U.S. District Judge for the Northern District of Illinois

1. **In *People v. Barnes*, the Illinois appellate court reversed and remanded your dismissal of the defendant's post-conviction petition. The appellate court wrote, "the trial court made a speculative attempt to reconstruct the jury's deliberations and divine its unexpressed conclusions, the kind of speculation our supreme court expressly disapproved in *People v. Mack*."**

- a. **Can you respond to the Court's critique?**

Response: A jury found Mr. Barnes guilty of first-degree murder, after a trial that was held before another judge, and this verdict was upheld on appeal. Mr. Barnes then sought post-conviction relief alleging ineffective assistance of appellate counsel because his appellate counsel on direct appeal had failed to argue that he had received ineffective assistance of trial counsel when his trial counsel failed to request a particular jury instruction. In my decision dismissing the petition for post-conviction relief, I concluded that Mr. Barnes received a fair trial based upon the evidence presented and that the Appellate Court would not have reversed the conviction even if appellate counsel had properly preserved the jury instruction issue. I fully accept the binding decision of the Appellate Court that, had the jury instruction been proffered, it was at least arguable that Barnes might have prevailed and that he, therefore, presented the gist of a claim of ineffective assistance of counsel, which is all he was required to do at the first stage of post-conviction review.

- b. **Did your analysis consider the precedent in *People v. Mack*? If so, did you view that case as distinguishable? If not, why not?**

Response: Yes, I considered *People v. Mack* and I believed it to be distinguishable. However, I fully accept the binding decision of the Appellate Court.

2. **What is the most important attribute of a judge, and do you possess it?**

Response: The most important attribute of a judge is impartiality. A judge must be open-minded and unbiased. I have been impartial in every case that I have presided over as a state court judge during the past 11 years.

3. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**



Response: A judge must strive to always be respectful, attentive and patient with every person who appears in the courtroom. I believe that each of these elements is equally important and I believe I have successfully exhibited these traits as a judge.

4. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: If I am confirmed, I will follow Supreme Court and Seventh Circuit precedent faithfully. My personal views have never and would never play a role in judicial decision-making.

5. **At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In resolving a case of first impression I would look first and foremost at the text of the constitutional provision, statute or regulation at issue. If the language was clear and unambiguous, I would go no further and I would simply apply its plain meaning. If the language was unclear or ambiguous, I would look to Supreme Court or Seventh Circuit precedent for guidance in cases with analogous or similar issues. If there were no helpful Supreme Court or Seventh Circuit cases, I would look to other federal circuit courts for persuasive authority.

6. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: My personal views have never and will never be a consideration in matters of judicial decision-making. If confirmed, I would apply the binding decision.

7. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Federal statutes are presumed to be constitutional. The rules of statutory interpretation mandate that where a reasonable interpretation can be given to a statute to avoid declaring it unconstitutional, that interpretation should be employed. After applying these rules a court should declare a federal statute unconstitutional only when Congress has exceeded its authority under the Constitution or the statute violates a provision of the Constitution.

8. **In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community", in determining the meaning of the Constitution? Please explain.**

Response: I do not believe it is ever proper for judges to rely on foreign law, or the views of the “world community.” Courts should look to the text of the Constitution as well as Supreme Court and circuit court precedent in determining the meaning of the Constitution.

9. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: As a state court judge for over 11 years, my rulings have always been based on precedent and the law. Political ideology or motivation have never been involved in my decision-making. If confirmed, I will impartially apply decisions of the Supreme Court and Seventh Circuit in all cases before me.

10. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: The best evidence is my record of service over the past 11 years as a state court trial judge. I believe I have developed a reputation for being fair and unbiased during my career. I have never permitted any personal views to come into play in judicial decision-making. If I am confirmed, I will continue to decide matters on the merits of each case.

11. **If confirmed, how do you intend to manage your caseload?**

Response: If confirmed, I would manage my caseload by employing the case management techniques that I have used during my career as a state court judge. I will ensure that early pre-trial conferences are held. I will set and enforce reasonable but firm deadlines and make sure that I am prepared to discuss cases when they are before me. I would rule on motions promptly so that cases can proceed to trial in a timely fashion. I would be sure to utilize all the resources available to me including case management software to keep cases and files organized so that I can successfully manage the caseload.

12. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Yes. I strongly believe that the judge is responsible for controlling the pace and conduct of litigation in his/her courtroom. The judge must set the tone and establish an expectation that cases should progress efficiently and steadily toward resolution. If I am confirmed, I would ensure that meaningful timelines are set and enforced. I would also ensure that I am prepared to resolve motions promptly.

13. **As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.**

Response: In reaching a decision in cases, I first carefully read any written motions or other submissions. I review any cited legal authority and conduct additional legal research. I then listen intently to arguments or evidence presented by counsel and witnesses, and fairly and impartially apply the facts of the case to the applicable law.

14. **President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: I am not aware of the full context of these comments by President Obama. I strongly believe that a judge should decide cases by faithfully applying the law to the facts. This is true regardless of how difficult the case is. It is never a judge’s role to decide cases based upon personal feelings or emotions.

15. **Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.**

- a. **In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>**

- i. **Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.**

Response: Yes. I do understand this statement to be binding precedent.

- ii. **What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?**

Response: My understanding is that the Court’s term “lawful marriages” refers to those marriages deemed lawful by individual states.

- iii. **Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?**

Response: Yes, that is my understanding.

- iv. **Are you committed to upholding this precedent?**

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

Response: Yes, if confirmed, I will follow the Supreme Court's decision in *Windsor* and all other precedent from the Supreme Court and the Seventh Circuit Court of Appeals.

- b. **Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, "By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States."<sup>2</sup>**

- i. **Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court's opinion full force and effect?**

Response: Yes. If I am confirmed, I would apply the *Windsor* decision and all other Supreme Court and Seventh Circuit precedents.

- c. **Justice Kennedy also wrote, "The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens."<sup>3</sup>**

- i. **Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court's opinion full force and effect?**

Response: Yes. If I am confirmed, I would apply the *Windsor* decision and all other Supreme Court and Seventh Circuit precedents.

- d. **Justice Kennedy wrote, "The definition of marriage is the foundation of the State's broader authority to regulate the subject of domestic relations with respect to the '[p]rotection of offspring, property interests, and the enforcement of marital responsibilities."<sup>4</sup>**

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<sup>2</sup> *Id.* 2689-2690.

<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If I am confirmed, I would apply the *Windsor* decision and all other Supreme Court and Seventh Circuit precedents.

- e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>**

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If I am confirmed, I would apply the *Windsor* decision and all other Supreme Court and Seventh Circuit precedents.

- 16. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.**

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: No.

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<sup>5</sup> *Id.* (internal citations omitted).

- b. **Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

17. **Please describe with particularity the process by which these questions were answered.**

Response: On September 16, 2014, I received these Questions for the Record from the Office of Legal Policy. I thoroughly reviewed the questions and prepared my answers. I provided a draft of my responses to the Justice Department. I subsequently finalized my responses and sent them back to the Justice Department for submission to the Committee.

18. **Do these answers reflect your true and personal views?**

Response: Yes.

**Response of Jorge Luis Alonso  
Nominee, United States District Court for the Northern District of Illinois  
To the Written Questions for the Record by Senator Ted Cruz**

- 1. Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.**

Response: My judicial philosophy as a state court trial judge for the past 11 years has been to approach each matter before me with an open and unbiased mind, and to decide cases fairly and promptly by applying the law to the facts. Additionally, I ensure that I treat all persons who appear before me with courtesy and respect. I do not possess sufficient knowledge of the judicial philosophy of the justices who served on the Warren, Burger, or Rehnquist Courts to comment as to whose philosophy might be described as most analogous with mine.

- 2. Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e. original intent, original public meaning, or some other form)?**

Response: If confirmed, I would faithfully follow Seventh Circuit and Supreme Court precedent regarding methodologies for interpreting the Constitution. The Supreme Court has employed original public meaning to interpret the Constitution in cases including *District of Columbia v. Heller*, 554 U.S. 570 (2008).

- 3. If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?**

Response: If confirmed as a district court judge, there are no circumstances under which I would overrule precedent. I would be bound by precedent of the Seventh Circuit and the Supreme Court.

- 4. Explain whether you agree that "State sovereign interests...are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power." *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).**

Response: If confirmed, I would be bound to follow Supreme Court precedent without regard to my personal feelings, if any, on the issue. I would follow the Supreme Court's holding in *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528 (1985).

- 5. Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?**

Response: If confirmed, I would apply the controlling precedent regarding questions of Congress' power under the Commerce Clause. My personal views, if any, would play no part in the decision making process.

The Supreme Court in *U.S. v. Lopez*, 514 U.S. 549 (1995) identified three categories of activity that Congress may regulate under its Commerce Clause power. These categories include: (1) the use of the channels of interstate commerce; (2) the instrumentalities of interstate commerce; and (3) activities having a substantial relation to interstate commerce. The Supreme Court has issued other decisions further defining the breadth of Congress' power under the Commerce Clause, particularly as it pertains to non-economic activity. See e.g., *Gonzales v. Raich*, 545 U.S. 1 (2005); *U.S. v. Morrison*, 529 U.S. 598 (2000). I would follow all Supreme Court and Seventh Circuit precedent regarding the extent of Congress' power under the Commerce Clause.

**6. What are the judicially enforceable limits on the President's ability to issue executive orders or executive actions?**

Response: The President's authority must stem from either the Constitution or an act of Congress. *Medellin v. Texas*, 552 U.S. 491, 525 (2008). The proper analysis, to determine whether the President's order or action is authorized, is contained in *Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579 (1952) (Jackson, J., concurring). If confirmed, I would follow the precedent of the Supreme Court and Seventh Circuit in deciding whether a challenged action or order is authorized.

**7. When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?**

Response: The Supreme Court in *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) defined a right as "fundamental" for the purposes of substantive due process protection when it is, as an objective matter, "deeply rooted in the Nation's history and tradition" and "implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed" (internal citations and quotations omitted).

**8. When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?**

Response: The Supreme Court has held that a classification should be subjected to heightened scrutiny when it differentiates based on certain characteristics such as race, alienage, national origin or gender. See *City of Cleburne, Tex. v. Cleburne Living Center*, 473 U.S. 432, 440 (1985). Courts will also apply heightened scrutiny when a law impinges on a fundamental constitutional right.



9. Do you “expect that (15) years from now, the use of racial preferences will no longer be necessary” in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).

Response: If confirmed as a district court judge, I would follow the controlling precedent of the Supreme Court regarding the permissible use of racial preferences in public higher education including *Grutter v. Bollinger*, 539 U.S. 306 (2003), and *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013). I do not have an expectation as to whether the use of racial preferences in public higher education will be necessary 15 years from now.

**John Robert Blakey**  
**Nominee, United States District Court for the Northern District of Illinois**  
**Responses to Questions for the Record**  
**From Senator Chuck Grassley**

1. **You have criticized the 5<sup>th</sup> Circuit's decision in *Heller Financial v. Gramco Computer Sales*, a case involving RICO. This Circuit would not be binding precedent over you, if you were confirmed.**

- a. **Can you describe for the Committee the general facts and holding in this case and explain why you consider this to be a bad ruling?**

Response: The *Heller Financial* case was a civil RICO matter involving a defrauded bank victimized by commercial bribery and a mail fraud scheme. On appeal, the jury verdict and trial court's judgment in favor of the bank were reversed in part by a Fifth Circuit panel, because it found that the bribery and fraud predicate offenses were not sufficiently "interrelated" to each other for the purposes of the pattern element of the federal RICO statute. In 1996, while still in private civil practice, I wrote a short legal criticism of the panel opinion for the Civil RICO Report (April 1996), because I believed that the *Heller Financial* panel failed to consider and follow applicable Supreme Court precedent regarding the proper two-prong "relatedness" analysis for addressing a RICO pattern. See *H.J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 238 (1989) (For the purpose of a RICO pattern, it "is not the number of predicates but the relationship that they bear to each other or to some external organizing principle that renders them 'ordered' or 'arranged.'"). Under controlling case law in the Supreme Court and the Courts of Appeals (including other Fifth Circuit opinions), the relatedness of a RICO pattern of predicate activity can be either "horizontally" interrelated among the acts themselves, or "vertically" related to each other through the affairs of the same enterprise. I believe the *Heller Financial* panel failed to properly consider and address the second prong of the requisite "relatedness" test.

- b. **How would you approach RICO cases, if confirmed?**

Response: If confirmed, I would approach cases involving the RICO statute in the same manner as any other federal statute, that is, I would faithfully apply the plain text enacted by Congress and do so based upon the controlling precedent of the Supreme Court and the Seventh Circuit.

2. **What is the most important attribute of a judge and do you possess it?**

Response: A strong commitment to the rule of law and public service remains the most important attribute of a judge. Through this commitment, the court must maintain the highest standards of integrity, independence, fairness, hard-work, expertise, professionalism, and judicial restraint within our constitutional system. As evidenced by my record, I possess this commitment in full measure.

3. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: In order to earn and keep the public trust, and fulfill the important responsibilities of the court, a federal judge must possess a temperament of patience, respect, impartiality and humility. Such qualities not only support the rule of law, but also promote the judicial listening required to render thoughtful opinions in each case. As demonstrated by my background and experience, I more than meet this standard.

4. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: The rule of law requires lower courts to adhere to the precedent of higher courts in order for the civil and criminal justice systems to function. If confirmed, I would faithfully follow the rulings of higher courts and give them full force and effect. Any personal agreement or disagreement that I might have with such precedents would be irrelevant, and thus, it would never play any part in my decision-making process as a district court judge.

5. **At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In each case of first impression regarding a question of law, the starting point for the court in the absence of controlling precedent is to apply the plain meaning of the operative legal text whether constitutional, statutory or regulatory. If the plain meaning is not clear, then the court should apply the text in light of the well-established canons of statutory construction and any analogous case law from the Supreme Court and the relevant Circuit Court of Appeals (in my case the Seventh Circuit) that has interpreted similar legal texts in a similar context, as well as any applicable persuasive authority that may prove helpful in giving a proper reading of the law as enacted.

6. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: As a district court judge, I would faithfully apply all binding precedent without regard for any personal belief that I might possess that the Supreme Court or the Seventh Circuit may have erred in rendering a decision.

7. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Every statute enacted by Congress retains a judicial presumption of constitutionality. As such, the federal courts may declare a statute unconstitutional in light of precedent and the Constitution, only if the constitutional question cannot be avoided within the case or controversy properly before the court, and the statute itself cannot be interpreted in a constitutional manner. If, under these limited circumstances, the federal court finds that a plain showing has been made that Congress has exceeded its constitutional bounds, then the court must declare the statute unconstitutional either on its face, or as applied, based upon the facts in the case.

8. **In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: No. If confirmed, I would follow binding precedent from the Supreme Court and the Seventh Circuit, and would not rely on the views of the world community or foreign law in determining the meaning of the Constitution.

9. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: I give my personal assurance to the Committee and the assurance of my years of experience adhering to the rule of law and the highest standards of professionalism (as a state and federal prosecutor, civil litigant and federal law clerk), that if confirmed, I would issue decisions well-grounded in precedent and the text of law, rather than in any political ideology or motivation.

10. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: Like political ideology or motivation, personal views cannot form any legitimate basis for any ruling of the court. Throughout my career, I have stood committed to the rule of law and, if confirmed, I would continue to do so as a district court judge. Under the rule of law, I would treat each litigant with respect and fairness, and impartially apply the law and precedent to the facts in each case without regard to any personal views that I might possess.

11. **If confirmed, how do you intend to manage your caseload?**

Response: If confirmed, I would continue to employ the strong work ethic that I have possessed during my career, make myself available for the parties whenever needed, and adopt internal practices to keep chambers running professionally, efficiently, and fairly. These practices would include specific case management orders, status conferences, evidentiary hearings, and clear rulings to resolve disputes as they arise. I would also use

technology effectively to track pending matters, review the factual record, and ascertain the controlling legal authority in each case.

**12. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: In order to avoid unnecessary costs or delay, judges need to play an active role in the pace and conduct of both criminal and civil litigation. If confirmed, I would do so as a district court judge in the interests of justice. As to civil cases, I would take proactive steps to control my docket, including setting an early status conference in the proceedings to engage the attorneys and enable them to define a reasonable plan and timetable for discovery in light of the nature of the case. Thereafter, I would hold the attorneys accountable for implementing that plan with periodic status hearings, and through this process, identify the key factual and legal issues for a proper and timely resolution of the matter by way of settlement, dispositive motion or trial. As part of this schedule, I would rule on motions in an efficient manner, and hold firm trial dates and effective pretrial conferences as needed. In appropriate cases, I would also take advantage of alternate dispute resolution measures such as court-ordered mediation. As to criminal cases, I would take all necessary steps to maintain the criminal docket consistent with due process and the Speedy Trial Act, including setting and keeping reasonable schedules for the completion of discovery, pretrial motion practice, trial and sentencing.

**13. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?**

Response: Over the course of my legal career (including my two years as a federal law clerk), I have seen first-hand the importance of judges working within the proper judicial role in our nation's justice system. If confirmed, I would no longer serve as an advocate of the public who administers the law, but rather as an impartial servant of law itself. In this role, I would fairly manage the flow of evidence at trial without any bias for either party, and when called upon in appropriate cases, I would make factual determinations myself based upon the record with an open mind. Thereafter, I would apply the controlling law to the case by adhering to the plain language of the operative statutory text and the applicable higher court precedent.

I fully realize that the transition from advocate to judge is challenging for any attorney, especially in learning new areas of substantive law, but given my prior legal experience, I am confident that I would make this transition smoothly, and I would often seek the guidance of my more experienced judicial colleagues during this process. I would also remain mindful of fact that, as a judge, I would no longer build the case myself as a litigant. Instead, the case would and must arise from the facts and parties themselves working through the adversarial system in my courtroom.

14. **President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: I do not know the context or exact intentions of the President’s statement, but to the degree his remarks about “empathy” refer to the necessity of a court to possess a deep understanding of the facts and litigants in each case, then those comments remain consistent with the traditional role of the courts in applying the law, including the provisions of Title 18, United States Code, Section 3553 and the U.S. Sentencing Guidelines. To the degree the remarks may reflect any emotional bias on behalf of the courts either for or against any party, however, they would not reflect the rule of law.

15. **Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.**

- a. **In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>**

- i. **Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.**

Response: Yes, this statement is a part of the holding in *Windsor*.

- ii. **What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?**

Response: Justice Kennedy is referring to the set of marriages recognized as lawful under state law.

- iii. **Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?**

Response: Yes.

- iv. **Are you committed to upholding this precedent?**

Response: Yes.

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>

i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes. I understand this portion to be binding precedent entitled to full force and effect by the lower courts.

ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes. I will commit to giving this portion of the Court’s opinion full force and effect.

c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>

i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes. I understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts.

ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes. I will commit to giving this portion of the Court’s opinion full force and effect.

d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>

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<sup>2</sup> *Id.* 2689-2690.

<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes. I understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. I will commit to giving this portion of the Court’s opinion full force and effect.

- e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>**

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes. I understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. I will commit to giving this portion of the Court’s opinion full force and effect.

- 16. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.**

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: No, I have not.

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<sup>5</sup> *Id.* (internal citations omitted).



- b. **Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No, I am not.

17. **Please describe with particularity the process by which these questions were answered.**

Response: On September 16, 2014, I received the Committee's written questions for the record. After reading through the questions and reviewing the applicable case law, I drafted answers to each question and sent them to representatives from the Department of Justice for review. Thereafter, I finalized my responses and authorized the Department of Justice to send my final answers to the Committee on my behalf.

18. **Do these answers reflect your true and personal views?**

Response: Yes.

**John Robert Blakey**  
**Nominee, United States District Court for the Northern District of Illinois**  
**Responses to Questions for the Record**  
**From Senator Ted Cruz**

**Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice’s judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.**

Response: If I am fortunate enough to be confirmed, my judicial philosophy would be to fairly and impartially apply the law to the facts presented in each case in a timely and professional manner. While I am not sufficiently versed in each of the individual judicial philosophies of the various Supreme Court Justices from the Warren, Burger and Rehnquist Courts to properly identify the one most analogous to mine, I believe that the Supreme Court Justices, as a whole, would endorse the judicial approach noted above.

**Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?**

Response: If confirmed, I would interpret the Constitution as set forth by binding precedent. In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court adopted an “original public meaning” interpretation of the Second Amendment of the Constitution. If confirmed, I would faithfully adhere to this ruling and all other precedent of the Supreme Court and the Court of Appeals for the Seventh Circuit.

**If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?**

Response: If confirmed as a member of the District Court for the Northern District of Illinois, I would be bound to follow the precedent of the Supreme Court and the Seventh Circuit, and thus I could not, and would not, overrule prior precedent.

**Explain whether you agree that “State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power.” *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).**

Response: If confirmed, I would follow and faithfully apply the Supreme Court’s ruling in *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528 (1985), and all other binding precedent placing constitutional limits on federal power, and do so without regard to whether or not I personally agreed or disagreed with such precedent.

**Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?**

Response: In *United States v. Lopez*, 514 U.S. 549 (1995), the Supreme Court identified three categories of activity that the Congress may regulate under the Commerce Clause and the Necessary and Proper Clause: (1) the channels of interstate commerce; (2) the instrumentalities of interstate commerce; and (3) the activities substantially affecting interstate commerce. See also *Gonzales v. Raich*, 545 U.S. 1 (2005); *United States v. Morrison*, 529 U.S. 598 (2000). If confirmed, I would follow these decisions and all other precedent from the Supreme Court and Seventh Circuit interpreting the constitutional scope of Congressional power.

**What are the judicially enforceable limits on the President's ability to issue executive orders or executive actions?**

Response: As the Supreme Court held in *Medellin v. Texas*, 552 U.S. 491, 524 (2008) (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952)), the President's authority to issue executive orders or engage in other executive actions must stem from an act of Congress or from the Constitution itself. If confirmed, I would apply the requisite "tripartite" analysis set forth in this case, and all other binding precedent.

**When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?**

Response: Under Supreme Court precedent, a right is "fundamental" for the purposes of the substantive due process doctrine if, viewed objectively, it is "deeply rooted in this Nation's history and tradition" and is "implicit in the concept of ordered liberty such that neither liberty nor justice would exist if they were sacrificed." *Washington v. Glucksberg*, 521 U.S. 702, 720-721 (1997) (internal citations and quotations omitted). If confirmed, I would follow this case, and all other controlling case law.

**When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?**

Response: As set forth by binding Supreme Court precedent, certain classifications are subjected to heightened levels of scrutiny under the Equal Protection Clause if they are based upon race, religion, national origin, gender, or if they burden a fundamental constitutional right. See *City of Cleburne v. Cleburne Living Center*, 472 U.S. 432 (1995). If I am confirmed, I would faithfully apply this case law, and all other precedent of the Supreme Court and the Seventh Circuit.

**Do you "expect that [15] years from now, the use of racial preferences will no longer be necessary" in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).**

Response: I do not have any personal expectations regarding the future use of racial preferences in public higher education and, if confirmed, I would apply all Supreme Court and Seventh Circuit precedent in any case based upon the facts presented.

**Senator Grassley  
Questions for the Record**

**Amos Mazzant,  
Nominee, U.S. District Judge for the Eastern District of Texas**

- 1. Has your experience as an appellate judge impacted the way you approach cases as a magistrate judge? Please explain how you made that transition.**

Response: My past experience as a state appellate judge has heightened my appreciation of creating an accurate and thorough trial record. Making the transition from a state appellate judge to a magistrate judge was not difficult. As a state judge, I followed state law in making decisions; now, as a magistrate judge, I follow federal law. Having served as a federal law clerk for almost twelve years before becoming a state judge, I was very knowledgeable about federal law, which made the transition seamless.

- 2. What is the most important attribute of a judge, and do you possess it?**

Response: I believe the most important attribute of a judge is an adherence to the rule of law: To impartially consider the facts of a case and to apply the relevant precedent to those facts without consideration of any personal beliefs or opinions. I do possess this attribute, and in my role as a judge for over the past ten years, I have demonstrated my commitment to the rule of law.

- 3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: A judge should demonstrate patience, and treat everyone that comes before the court with dignity and respect. The element of judicial temperament that I consider most important is respect; respect for the parties, respect for the lawyers, respect for everyone involved in the federal process, and respect for the rule of law. I believe that I have demonstrated that I met these standards as a state judge and as a magistrate judge, and I would continue to meet these standards if confirmed as a district judge.

- 4. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: As a state judge and magistrate judge for over ten years, I have faithfully followed all precedents from the Supreme Court, as well as all precedents from the Fifth Circuit. If confirmed as a district judge, I would continue to follow precedent, without regard to any personal beliefs.

5. **At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: With regard to statutory interpretation, I examine the plain language of the words of the statute. My view is that statutory interpretation is to give effect to legislative intent and that the legislative intent is embodied into the words of the statute. If the plain meaning of the statute is unclear, I would look to Supreme Court and Fifth Circuit cases for analogous authority. If there is no analogous authority from the Supreme Court or Fifth Circuit, I would look for persuasive authority from other federal circuits.

6. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: As a magistrate judge, I follow the precedent from the Supreme Court and the Fifth Circuit, irrespective of whether I agree with the decision. If confirmed as a district judge, I would also be bound by, and would continue to follow, the precedents from the Supreme Court and the Fifth Circuit.

7. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: A judge should use restraint in considering whether a statute is constitutional and should avoid the constitutional question if there is another way to decide the case. Statutes passed by Congress and signed into law by the President are presumptively valid. If the constitutional question cannot be avoided, a judge should only declare a statute unconstitutional when Congress enacts a law that is contrary to the Constitution or when Congress enacts a law that exceeds its authority under the Constitution.

8. **In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: In my view, it is not appropriate to rely upon foreign law or the views of the world community in determining the meaning of the Constitution.

9. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: My record as a state court judge and as a magistrate judge for over ten years would be the best evidence that I follow the rule of law and do not make decisions based upon any political ideology or motivation. If confirmed as a district judge, I would continue to follow the rule of law and precedent.

- 10. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: My record as a state court judge and as a magistrate judge would be the best evidence that I treat all litigants fairly, and that I follow the rule of law and do not make decisions based upon any personal views. If confirmed as a district judge, I would continue to follow the rule of law and precedent, and to treat fairly all who appear before me.

- 11. If confirmed, how do you intend to manage your caseload?**

Response: I would manage my caseload by setting and enforcing reasonable deadlines for discovery, motions, and trials. As a magistrate judge for over five years, I am familiar with the caseload for the Eastern District of Texas, Sherman Division. I have extensive experience managing this heavy docket. If confirmed as a district judge, I would continue my practice of setting and enforcing reasonable deadlines, and I would refer appropriate matters to a magistrate judge.

- 12. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Yes, a judge has a role in controlling the pace of litigation. I view part of my role as a judge to be that of a facilitator to assist the lawyers and the parties to move the litigation through the process as efficiently as possible. I do this, in part, by setting and enforcing reasonable deadlines for discovery, motions, and trials. If confirmed, I would continue this practice.

- 13. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.**

Response: As a state court judge and as a current magistrate judge, my method has been to first review the briefs of the parties and read the case law cited by the parties. I then conduct additional research to see whether there is controlling precedent from the Supreme Court and the Fifth Circuit. I rely upon the controlling precedent to reach a decision and draft an opinion that explains the issue and sets forth the reasoning for my decision.

- 14. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: Although I am not aware of the full context of this quotation, as a judge for over ten years, I follow the rule of law and do not decide a case based upon my own personal views or whether I think one side should win or lose a case. With that being said,

as a judge, I make sure that everyone who appears in court is treated with dignity and respect.

15. **Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.**
- a. **In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>**
- i. **Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.**
- Response: Yes.
- ii. **What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?**
- Response: Same-sex marriages recognized under state law.
- iii. **Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?**
- Response: Yes.
- iv. **Are you committed to upholding this precedent?**
- Response: Yes.
- b. **Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>**
- i. **Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes.

- c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes.

- d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes.

- e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

<sup>5</sup> *Id.* (internal citations omitted).



- i. **Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court's opinion full force and effect?**

Response: Yes.

16. **According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: "To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator's judicial selection committees".**

- a. **Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: In early December 2013, I met with Lisa Blue Baron, a friend and prominent attorney whom I have known for a number of years, to discuss my application for this judicial vacancy. During this meeting, I inquired if Ms. Blue Baron would consider supporting my nomination if the Senators decided to advance my name to the White House. Also during this meeting, I learned that Ms. Blue Baron is an officer with the American Association for Justice. Although Ms. Blue Baron was very cordial, she declined to support me because she was already supporting one of the other candidates under consideration. Since then, I periodically notified my friends, including Ms. Blue Baron, about my status in the process.

- b. **Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

17. **Please describe with particularity the process by which these questions were answered.**

Response: On September 16, 2014, these questions were forwarded to me by the Department of Justice Office of Legal Policy. I reviewed the questions and drafted my answers to the questions. I then submitted my answers to the Department of Justice Office of Legal Policy for review. I then subsequently finalized my answers for submission to the Senate Judiciary Committee.

**18. Do these answers reflect your true and personal views?**

Response: Yes.

Senator Grassley  
Questions for the Record

Robert Pitman,  
Nominee, U.S. District Judge for the Western District of Texas

1. You were reversed in *Jennings v. Owens*. The Fifth Circuit held that the plaintiff did not show he had a liberty interest that was infringed in violation of his rights.

a. What factors did you consider in this case?

Response: In this case, I engaged the two-step inquiry prescribed by *Coleman v. Dretke*, 395 F.3d 216 (5th Cir. 2004), relating to certain classes of convicted persons who maintain a liberty interest giving rise to a right to procedural due process before the imposition of sex offender parole conditions. The first step consisted of a determination as to whether the plaintiff had such a liberty interest. Consistent with *Coleman*, I considered whether the conditions constituted a dramatic departure from the basic conditions of release. Having so found, I then engaged in the second step of the inquiry: whether the state provided constitutionally sufficient procedures before imposing the conditions.

b. In retrospect, do you agree with the Fifth Circuit's ruling?

Response: As a result of the Fifth Circuit's ruling in *Jennings*, I now understand the Fifth Circuit's ruling in *Coleman* to exclude defendants who at any time in the past had been convicted of a sex offense from the category of persons who retain a liberty interest, and thus a right to due process, in the imposition of sex offender conditions. If confirmed, I will follow Fifth Circuit precedent as to this issue, as well as all others with which I am presented as a trial judge.

2. What is the most important attribute of a judge, and do you possess it?

Response: I believe the most important attribute of a judge is integrity. For a judge, integrity means strictly adhering to the rule of law and rendering fair and impartial decisions. I believe that I demonstrated this attribute during my tenure as a magistrate judge, and I am committed to doing the same should I be confirmed as a district judge.

3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?

Response: I believe that a judge should be diligent, decisive, humble and even-tempered. As a magistrate judge, I was committed to treating all who appeared in my court with respect and civility, and to giving them a full and meaningful opportunity to be heard, and I am committed to doing the same should I be confirmed as a district judge.

4. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: If confirmed as a district judge, I pledge to follow the precedents of the Supreme Court and the Fifth Circuit Court of Appeals without any regard to any personal views I might have, and I believe I did so during the eight years I served as a magistrate judge. I believe that confidence in the judicial system depends on the consistent and unbiased application of precedent.

5. **At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In a case of first impression, I would first focus on the text of the statute, regulation or rule. If the language was clear and unambiguous, I would apply the plain meaning of the text, employing canons of construction approved by the Supreme Court and the Fifth Circuit. If the language was ambiguous, I would look to Supreme Court and Fifth Circuit opinions in which those courts interpreted similar or analogous language. In the absence of such guidance, I would look to opinions of courts of other jurisdictions addressing similar or analogous language.

6. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: In all cases, I would apply the precedents of the Supreme Court and Fifth Circuit Court of Appeals regardless of whether or not I agreed with those decisions.

7. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: I would begin the analysis with the presumption that statutes enacted by Congress are constitutional. Only in cases where Congress has exceeded its authority under the Constitution or where the statute violates a provision of the Constitution should a statute be held unconstitutional; and then only when the resolution of the case requires reaching the Constitutional question.

8. **In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: No.

9. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: My record as a magistrate judge demonstrates my commitment to follow precedent and, if confirmed as a district judge, I pledge to follow precedent strictly and without any regard to political ideology or motivation.

10. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: I believe my record as a magistrate judge demonstrates my commitment to be fair to every litigant who appears before me and to apply the law without any regard to any personal beliefs, and I pledge to do the same if confirmed as a district judge.

11. **If confirmed, how do you intend to manage your caseload?**

Response: As a magistrate judge, I endeavored to manage my caseload efficiently and effectively, while ensuring that the parties were given a full and fair opportunity to litigate their cases. If confirmed, I will manage my caseload in accordance with the Federal Rules of Procedure and the Local Rules of the Western District of Texas. I will set reasonable but firm deadlines, making an effort to accommodate the needs of the parties, and will make prompt rulings following careful consideration.

12. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: I believe judges have an important role in controlling the pace of litigation, ensuring that litigants have the opportunity to fully avail themselves of the process, while being mindful of the importance of case resolution to the overall system. If confirmed, I will utilize scheduling orders and status conferences to ensure that cases are progressing efficiently, taking appropriate account of the needs of the parties. I will rule on motions promptly so that no undue delays are attributable to the court.

13. **As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.**

Response: After determining the question presented, I would make a fair and impartial evaluation of the facts. I would then apply the relevant law according to precedent. Finally, I would endeavor to communicate my decision and the reasons underlying it in a clear and concise manner.

14. **President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the**

**world works, and the depth and breadth of one's empathy . . . the critical ingredient is supplied by what is in the judge's heart." Do you agree with this statement?**

Response: I believe that judges should apply the law according to precedent and without regard to personal beliefs or biases.

15. **Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.**
- a. **In the penultimate sentence of the Court's opinion, Justice Kennedy wrote, "This opinion and its holding are confined to those lawful marriages."<sup>1</sup>**
- i. **Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.**
- Response: Yes.
- ii. **What is your understanding of the set of marriages to which Justice Kennedy refers when he writes "lawful marriages"?**
- Response: I understand the term "lawful marriages" to refer to marriages that are made lawful by individual states.
- iii. **Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?**
- Response: Yes.
- iv. **Are you committed to upholding this precedent?**
- Response: Yes.
- b. **Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, "By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States."<sup>2</sup>**

<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes.

- c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>**

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes.

- d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>**

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes.

- e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the**

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.”<sup>5</sup>

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes.

16. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.

Response: No.

- b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.

Response: No.

17. Please describe with particularity the process by which these questions were answered.

Response: I received these questions on September 16, 2014. I reviewed the questions and prepared the attached responses. My responses were then submitted to the Office of

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<sup>5</sup> *Id.* (internal citations omitted).



Legal Policy of the Department of Justice. After discussing my responses with an official with the OLP, I finalized them and requested that they be forwarded to the Committee.

**18. Do these answers reflect your true and personal views?**

Response: Yes.

**Senator Grassley  
Questions for the Record**

**Robert William Schroeder III,  
Nominee, U.S. District Judge for the Eastern District of Texas**

1. **How has your experience in the White House Counsel's office shaped your legal career? How do you anticipate it will affect your career as a judge, if confirmed?**

Response: My experience in the White House Counsel's Office shaped my legal career by instilling in me an appreciation for hard work, thorough preparation and attention to detail. I learned that it is important to be diligent and industrious. To the extent my experience in the office may affect my career as a judge, if I am fortunate enough to be confirmed, I believe it will be through those same values of hard work, thorough preparation and attention to detail, as well as through the respect I have for the Constitution and our system of government, particularly the separation of powers and the important but distinct roles the three branches of our government play.

2. **What assurances can you provide the committee that you will administer justice in an impartial manner, even when a litigant may have personal beliefs or political views that are different from yours?**

Response: A fair and impartial judiciary is a hallmark of and essential to democracy, and a judge's personal beliefs or political views simply have no place in the courtroom. If I am fortunate enough to be confirmed, I will treat every litigant fairly and impartially and without regard to my own or any litigant's personal beliefs or political views.

3. **Your questionnaire indicates that the majority of your practice has been in civil litigation. If confirmed, what steps will you take to familiarize yourself with criminal law?**

Response: While the majority of my private practice has been in civil litigation, I do have some criminal litigation experience. During the years of my practice, I have handled approximately 15 to 20 criminal matters. I also worked on a number of criminal matters during the two years of my judicial clerkship. If I am fortunate enough to be confirmed, I will work hard to bring myself appropriately up to speed by being familiar with both substantive and procedural criminal law and by utilizing the resources of the Federal Judicial Center and the Administrative Office of the United States Courts in doing so. I will dedicate myself to making sure that I am completely prepared for any criminal matter that comes before me.

4. **What is the most important attribute of a judge, and do you possess it?**

Response: I believe the most important attribute of a judge is to have a commitment to the rule of law and an ability to approach every case with an open mind and to fairly and

impartially apply applicable law and binding precedent to the facts of each case. I believe I possess this attribute.

5. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: I believe good judicial temperament is critically important. Judges should be well prepared, careful, patient, courteous and respectful to litigants and counsel, and demonstrate modesty and humility. Judges should recognize their important but limited role in the process and understand that they are there to serve the public as neutral arbiters of justice. They should be diligent in their work. They should approach every case with an open mind and fairly and impartially apply applicable law and binding precedent to the facts of each case. I believe I meet this standard.

6. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents.**

Response: The doctrine of stare decisis is a cornerstone of our legal system. It brings stability and predictability to our system and increases public confidence in our courts. If I am fortunate enough to be confirmed, I will faithfully follow Supreme Court and Fifth Circuit precedents and give them full force and effect, whether I agree with such precedents or not.

7. **At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: If faced with a case of first impression, I would first examine whether the plain language of the applicable statute or other provision resolved the issue. If the language was clear and unambiguous, I would apply the law to the facts of the case. If not, I would look to analogous or related Supreme Court and Fifth Circuit precedent, fully and carefully considering the arguments of the parties. If there were no such precedent, I would look to relevant cases from other circuits and district courts as persuasive authority.

8. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: If I am fortunate enough to be confirmed, I would faithfully apply and follow all controlling Supreme Court and Fifth Circuit precedent without regard to any opinion I might have about whether it was decided correctly.

**9. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Statutes enacted by Congress are presumed to be constitutional. I believe a federal court should declare a statute enacted by Congress unconstitutional only when it is clearly shown that Congress has exceeded its authority under the Constitution or acted contrary to a provision of the Constitution.

**10. In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: I do not believe it is ever proper for judges to rely on foreign law or the views of the “world community” in determining the meaning of the Constitution unless required to do so by binding Supreme Court or circuit precedent.

**11. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: If I am fortunate enough to be confirmed, I will approach every case with an open mind and fairly and impartially apply applicable law and binding precedent to the facts of each case, without regard to any political ideology or motivation.

**12. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: The role of a judge is to serve as a neutral arbiter of justice and to approach every case with an open mind and to treat each party fairly and impartially. If I am fortunate enough to be confirmed, any personal views I may have will have no place in the performance of my duties.

**13. If confirmed, how do you intend to manage your caseload?**

Response: If I am fortunate enough to be confirmed, one of my most important priorities would be to ensure that all matters I am responsible for proceed efficiently and expeditiously toward resolution. I would carefully monitor my caseload through the court’s case management system and use pretrial scheduling orders and regular status conferences to move cases forward in a timely manner. I would seek to understand as early as possible the nature of each matter and be available to the parties and counsel throughout the case. I would rule promptly on pending motions and set matters for trial.

14. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Rule 1 of the Federal Rules of Civil Procedure describes the goal of the judicial system as securing the “just, speedy, and inexpensive determination of every action.” I believe that judges play an essential role in controlling the pace and conduct of litigation. If I am fortunate enough to be confirmed, I will actively participate in the management of cases so that matters can be fairly, efficiently and expeditiously resolved.

15. **You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?**

Response: The role of a judge is fundamentally different from that of a lawyer or advocate. A lawyer’s job is to make the best arguments he or she can, reasonably and in good faith, on behalf of a client. By contrast, the role of a judge is to approach every case with an open mind, to be fair and neutral and to carefully understand the facts and impartially apply the law. If I am fortunate enough to be confirmed, I would fully and carefully review and consider all admissible evidence and argument made by the parties in briefs, other written submissions and during hearings. I would conduct independent legal research as necessary, determine the applicable precedent and faithfully apply the law to the facts. With respect to the challenges I may face if I am fortunate enough to be confirmed, I believe the two years I spent clerking for a federal judge early in my career will assist me in making the transition. In addition, although I have some criminal litigation experience, I will need to bring myself up to speed in the areas of substantive and procedural criminal law, which I plan to do through hard work and diligent study and by utilizing the resources of the Federal Judicial Center and the Administrative Office of the United States Courts.

16. **President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: I am not familiar with the context of this statement. I believe that judges should decide all cases by the careful, fair and impartial application of law and precedent to the facts of each case.

17. **Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize**

yourself with the case before providing your answers. Please provide separate answers to each subpart.

- a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>
- i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.
- Response: Yes.
- ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?
- Response: It is my understanding that the “lawful marriages” to which Justice Kennedy referred are those authorized by state law.
- iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
- Response: Yes.
- iv. Are you committed to upholding this precedent?
- Response: Yes. If I am fortunate enough to be confirmed, I would faithfully apply the *Windsor* decision and all other Supreme Court and Fifth Circuit precedent.
- b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
- Response: Yes.
- ii. Will you commit to give this portion of the Court’s opinion full force and effect?

<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.

Response: Yes. If I am fortunate enough to be confirmed, I would faithfully apply the *Windsor* decision and all other Supreme Court and Fifth Circuit precedent.

- c. **Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>**

- i. **Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Ycs.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If I am fortunate enough to be confirmed, I would faithfully apply the *Windsor* decision and all other Supreme Court and Fifth Circuit precedent.

- d. **Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>**

- i. **Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If I am fortunate enough to be confirmed, I would faithfully apply the *Windsor* decision and all other Supreme Court and Fifth Circuit precedent.

- e. **Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the**

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

domestic relations of husband and wife and parent and child were matters reserved to the States.”<sup>5</sup>

- i. **Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If I am fortunate enough to be confirmed, I would faithfully apply the *Windsor* decision and all other Supreme Court and Fifth Circuit precedent.

18. **According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.**

- a. **Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: No.

- b. **Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

19. **Please describe with particularity the process by which these questions were answered.**

Response: I received the questions on September 16, 2014 and reviewed them and prepared my responses over the next two days. After discussing my responses with an

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<sup>5</sup> *Id.* (internal citations omitted).



official in the Office of Legal Policy at the Department of Justice and making final revisions, I authorized their submission to the Senate Judiciary Committee.

**20. Do these answers reflect your true and personal views?**

Response: Yes.



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**VIA EMAIL AND FIRST-CLASS MAIL**

Standing Committee on  
the Federal Judiciary  
Attn: Denise A. Cardman  
Suite 400  
1050 Connecticut Avenue, NW  
Washington, DC 20036

August 5, 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: **Nomination of Jorge Luis Alonso to the United States  
District Court for the Northern District of Illinois**

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Associate Judge Jorge Luis Alonso who has been nominated for a position on the United States District Court for the Northern District of Illinois. A substantial majority of the Committee is of the opinion that Judge Alonso is Qualified for this position, and a minority of the Committee is of the opinion that Judge Alonso is Well Qualified for this position.

A copy of this letter has been provided to Judge Alonso.

Sincerely,

Bettina B. Plevan  
Chair

BBP:ddc

cc: The Honorable Jorge Luis Alonso (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via email)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)

August 5, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on August 5, 2014.



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**VIA EMAIL AND FIRST-CLASS MAIL**

August 5, 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: **Nomination of John Robert Blakey to the United States  
District Court for the Northern District of Illinois**

Dear Mr. Eggleston:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of John Robert Blakey who has been nominated for a position on the United States District Court for the Northern District of Illinois. The Committee is of the opinion that Mr. Blakey is Unanimously Qualified for this position.

A copy of this letter has been provided to Mr. Blakey.

Sincerely,

Bettina B. Plevan  
Chair

BBP:ddc

cc: John Robert Blakey, Esq. (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via email)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)

August 5, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on August 5, 2014.



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**VIA EMAIL AND FIRST-CLASS MAIL**

June 27, 2014

RECEIVED JUL 8 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: **Nomination of Amos L. Mazzant, III, to the United States  
District Court for the Eastern District of Texas**

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Amos L. Mazzant, III, who has been nominated for a position on the United States District Court for the Eastern District of Texas. A substantial majority of the Committee is of the opinion that Magistrate Judge Mazzant is Well Qualified for this position and a minority of the Committee is of the opinion that Magistrate Judge Mazzant is Qualified for this position.

A copy of this letter has been provided to Magistrate Judge Mazzant.

Sincerely,

Bettina B. Plevan  
Chair

BBP:ddc

cc: The Honorable Amos L. Mazzant, III (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via email)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)

June 27, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on June 27, 2014.



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**VIA EMAIL AND FIRST-CLASS MAIL**

June 27, 2014

RECEIVED JUL 1 8 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: **Nomination of Robert Lee Pitman to the United States  
District Court for the Western District of Texas**

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Robert Lee Pitman who has been nominated for a position on the United States District Court for the Western District of Texas. The Committee is of the opinion that Mr. Pitman is Unanimously Well Qualified for this position.

A copy of this letter has been provided to Mr. Pitman.

Sincerely,

Bettina B. Plevan  
Chair

BBP:ddc

cc: Robert Lee Pitman, Esq. (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via email)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)



June 27, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on June 27, 2014.



## AMERICAN BAR ASSOCIATION

Standing Committee on  
the Federal Judiciary

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**VIA EMAIL AND FIRST-CLASS MAIL**

June 27, 2014

RECEIVED JUL 8 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: *Nomination of Robert William Schroeder III to the United States District Court for the Eastern District of Texas*

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Robert William Schroeder III who has been nominated for a position on the United States District Court for the Eastern District of Texas. The Committee is of the opinion that Mr. Schroeder is Unanimously Well Qualified for this position.

A copy of this letter has been provided to Mr. Schroeder.

Sincerely,

Bettina B. Plevan  
Chair

BBP:ddc

cc: Robert W. Schroeder, III, Esq. (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via email)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)

June 27, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on June 27, 2014.



**NOMINATIONS OF ALLISON DALE BURROUGHS,  
NOMINEE TO BE DISTRICT JUDGE FOR THE  
DISTRICT OF MASSACHUSETTS; JEANNE E.  
DAVIDSON, NOMINEE TO BE JUDGE OF THE  
U.S. COURT OF INTERNATIONAL TRADE;  
HAYWOOD STIRLING GILLIAM, JR., NOMI-  
NEE TO BE DISTRICT JUDGE FOR THE  
NORTHERN DISTRICT OF CALIFORNIA; AND  
AMIT PRIYAVADAN MEHTA, NOMINEE TO  
BE DISTRICT JUDGE FOR THE DISTRICT  
OF COLUMBIA**

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**TUESDAY, SEPTEMBER 17, 2014**

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:05 a.m., in Room SD-226, Dirksen Senate Office Building, Hon. Dianne Feinstein, presiding.

Present: Senators Grassley and Lee.

**OPENING STATEMENT OF HON. DIANNE FEINSTEIN,  
A U.S. SENATOR FROM THE STATE OF CALIFORNIA**

Senator FEINSTEIN. I would like to welcome everyone to this nomination hearing. There are two big announcements today.

Today is the 227th anniversary of the signing of the Constitution in the United States in 1778. So it is a big day.

It is also a big day for this Committee because the Ranking Member on my right—it is his birthday.

[Applause.]

Senator GRASSLEY. Thank you.

Senator FEINSTEIN. And the rumor mill has told me a story. On every birthday he runs to the Capitol, and it is six miles. This morning—and I am not going to tell you his age because we are very close.

[Laughter.]

Senator FEINSTEIN. Well, I am not going to tell you his age, but he ran the six miles. That is what really deserves a round of applause.

[Applause.]

Senator FEINSTEIN. Now we will get down to business. I am pleased to welcome Eleanor Holmes Norton from the House of Representatives to be with us today.

Let me make just a brief introduction and then call upon the Ranking Member. We have today three nominees to the United States District Courts, one of them from California, as well as a nominee to the Court of International Trade.

So I would like to ask Senator Grassley to make his opening statement and then we will go to those introducing the nominees and then we will go to the nominees.

Senator Grassley, happy birthday.

Senator GRASSLEY. Thank you very much. Elizabeth Warren sent me a letter yesterday.

Senator FEINSTEIN. Oh, she knew. Maybe you are the source of the rumor. Who knows?

[Laughter.]

Senator GRASSLEY. Anyway. I have no opening statement. We do not believe, at this point, any of these nominees are controversial. You never know until you get through all of these hearings and go through all of the papers and stuff, but right now it looks like no controversy. That is why I do not have an opening statement.

Senator FEINSTEIN. Okay. We will go to introductory statements, and if I may if you are not in a rush, I would like to recognize the presence of the Delegate from the District of Columbia. As I said to her privately, we welcome you here. I have followed your career for many, many years and it is a very impressive one.

So welcome, and we would be very happy to hear your statement.

**PRESENTATION OF AMIT PRIYAVADAN MEHTA, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, BY HON. ELEANOR HOLMES NORTON, A DELEGATE IN CONGRESS FROM THE DISTRICT OF COLUMBIA**

Delegate NORTON. Thank you very much, Madam Chair. I will say that following is mutual.

Many happy returns, Senator Grassley.

I have been told to keep it very short. I agree with Senator Grassley. There should be nothing controversial about, certainly, my nominee.

I will say only that Amit Mehta will be the first person of Asian Pacific background in the U.S. District Court for the District of Columbia, and boy what does he come with, magna cum laude graduate from Georgetown, Phi Beta Kappa, University of Virginia Law School, Order of the Coif, clerked on the Ninth Circuit, experienced now as a partner in a major law firm, and before that criminal experience at the renowned public defender service of the District of Columbia. He has got it all. It is a whole package.

I strongly recommend him and we would be very proud to have a young able judge like this on our U.S. District Court for the District of Columbia.

Senator FEINSTEIN. Thank you very much.

Now I would like to recognize the distinguished senator from Massachusetts, Senator Warren.

**PRESENTATION OF ALLISON DALE BURROUGHS, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS, BY HON. ELIZABETH WARREN, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS**

Senator WARREN. Thank you very much, Madam Chairman, and happy birthday Ranking Member. Delightful to be here today.

Thank you for holding this hearing allowing me to be here today. I am very pleased to have the chance to introduce Allison Burroughs who has been nominated to fill a judicial vacancy on the District Court for the District of Massachusetts.

Ms. Burroughs is joined today by her husband, Mike; her children, Jake and Harry; her sister, Carol; her niece, Haley; and her mother, Rima. I know they are all tremendously proud to have the chance to share this moment with her.

Now Ms. Burroughs' nomination came after she was recommended for this position by the Advisory Committee on Massachusetts Judicial Nominations. The Advisory Committee is composed of distinguished members of the Massachusetts legal community, including prominent academics and litigators and is chaired by former Massachusetts District Court Judge, Nancy Gertner. The Committee's recommendation reflects the broad consensus of the Massachusetts legal community that she will be a superlative member of the Federal bench.

Ms. Burroughs attended Middlebury College in Vermont and law school at the University of Pennsylvania where she graduated in 1988. She immediately began a 1-year clerkship with Judge Norma Shapiro on the United States District Court in Philadelphia beginning what has been a long and distinguished career in public service.

After her clerkship, Ms. Burroughs went to the United States Attorney's Office, first in Philadelphia and then later back home in Boston.

For 16 years, Ms. Burroughs has worked as a Federal Prosecutor and her record is one of significance, success and extraordinary integrity. Allison won three Director's Awards for superior performance as an Assistant U.S. Attorney.

I want you to hear this one—her first in 1994 recognized her role in the investigation and prosecution of the Junior Black Mafia, one of the most ubiquitous and dangerous Philadelphia gangs in the 1980s and 1990s, a group believed to have killed more than 40 people.

Her most recent 2004 Superior Performance Award recognized another kind of work that Allison did, her critical role in the Massachusetts U.S. Attorney's Office investigating and prosecuting individuals who perpetrated a complex offshore tax avoidance money laundering scheme.

Since 2005, Ms. Burroughs has worked as partner and a defense lawyer in private practice in the firm of Nutter McClennen and Fish. Her extensive experience both as a prosecutor and a defense attorney gives Ms. Burroughs significant insight into both law and

the practicalities of our adversarial system that will serve her well on the bench.

She has also devoted significant time to civic and charitable work. She was founding member of Womanade, an organization that focuses on philanthropy to support programs that positively impact women and girls in the Boston area. She is also the former president of the board and a longtime trustee of Agassiz Village, a nonprofit camp for physically challenged and economically disadvantaged inner-city kids. Agassiz Village was founded by Allison's grandfather, a Russian immigrant who sold newspapers on a Boston street corner before putting himself through law school.

Ms. Burroughs has received numerous honors recognizing her skills as a litigator, including multiple listings as a Massachusetts Super Lawyer and is a superlatively talented lawyer with a demonstrated commitment to public service.

I am proud to have recommended her to President Obama. I look forward to her full approval by the Committee and her swift confirmation by the full Senate.

Thank you very much for letting me be here today.

Senator FEINSTEIN. Thank you very much, Senator. If you would like to be excused—I meant to say that to Delegate Norton—but you are certainly able to. Thank you for taking the time.

Senator WARREN. Thank you, Madam Chairman.

Senator FEINSTEIN. I appreciate it.

It is my pleasure to introduce Haywood Gilliam, Jr. He is a nominee I recommended to the President after my bipartisan screening committee—similar to what Senator Warren has in Massachusetts—gave him a strong recommendation.

Mr. Gilliam's wife, Estela; daughter, Maya—nine years old, whose favorite author is a man by the name of Jackson. I told her I am from the "Little House on the Prairie" school, so I did not recognize him. He does mythology; right, Maya? So she is here.

Mr. Gilliam's father is here. He was trained as a thoracic surgeon in the United States Army. I would like to thank him for his years of service on active duty as well as reserve duty.

This is a distinguished practitioner at a major firm, Covington and Burling, and a former Federal Prosecutor. He graduated *magna cum laude* from Yale in 1991, earned his law degree from Stanford in 1994, was an article editor for the *Stanford Law Review*.

After graduation, he clerked for Judge Thelton Henderson of the Northern District of California. From 1995 to 1998, he worked as an associate at the law firm of McCutchen, Doyle, Brown and Enersen. He joined the United States Attorney's Office in San Francisco in 1999, serving until 2006. He was the Chief of the Securities Fraud Section from 2005 to 2009.

He has handled several securities fraud cases as well as cases involving immigration fraud, health care fraud, commodities price manipulation and narcotics possession with intent to distribute.

In 2006, he rejoined his prior firm, at that time called Bingham McCutchen as a partner. In 2009, he joined Covington and Burling where he has been a partner for the last 5 years.



He is focused on corporate and individual clients facing investigation by the Federal Government. At Covington and Burling, he is the vice chair of the firm's white collar defense and investigations practice group which includes dozens of partners.

So you can see he has had both sides of the question with respect to securities fraud, both as a U.S. Attorney and as a corporate defense lawyer. He has served on the District Court's Merit Selection Panel for magistrate judges, chairing it 2013, on the Stanford Law School Board of visitors from 2010 to 2012, and he serves on the board of Vincent Academy, a charter school in west Oakland.

So for his family, you should know that your father and your son has an outstanding record of academic success, legal practice, and community involvement. I am confident he will serve with distinction as a district court judge.

Let me add just a few words about Jeanne Davidson who has been nominated to serve on the Court of International Trade. This court has exclusive jurisdiction to hear important cases arising out of international trade, such as customs disputes.

Jeanne Davidson, the nominee, earned her bachelors from UC Berkeley and her law degree from New York University of Law. For three decades, she has served in the Civil Division of the Department of Justice where she has held a variety of supervisory positions, some involving international trade. The American Bar has given her the highest rating of well-qualified.

So now I would like to call forward the nominees, have them sworn in, and give them a chance to do very brief opening statements and then we will begin our questions.

If you would raise your right hand, please and affirm the oath as I tell it. I do solemnly swear that I will support the Constitution of the United States in all cases, so help me God.

Ms. BURROUGHS. I do.

Ms. DAVIDSON. I do.

Mr. GILLIAM. I do.

Mr. MEHTA. I do.

Senator FEINSTEIN. Thank you very much. The normal rule is 5-minute rounds. So I would like to begin with Ms. Burroughs and go right down the line with a brief opening statement and then ask Senator Grassley to be the first one to ask questions.

Please, if you will. You need your mic on.

Ms. BURROUGHS. I do not think you can be a judge unless you are smart enough to figure out how to turn it on.

[Laughter.]

Senator FEINSTEIN. Sometimes that means you are just very brilliant.

**STATEMENT OF ALLISON DALE BURROUGHS, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS**

Ms. BURROUGHS. I would like to thank the Committee for inviting me here today. Senator Grassley, happy birthday. I was gratified to hear you say we were noncontroversial and I hope none of us do anything today to change your mind about that.

I would also like to thank Senator Warren for her kind and generous introduction as well as Senator Markey for his support. I would be remiss not to also thank the Massachusetts Selection

Committee and its Chair, Nancy Gertner, who I know worked very hard to get this right. And of course, my thanks to President Obama for his nomination.

I am very fortunate to have many friends here today and others watching on the webcast, including my colleagues at Nutter McClennen and Fish. Friends in this room who were generous enough to make the trip from Boston include Amy Holman, Al Ulatom, Mark Kmetz, John Levy, and Mathilda Willey.

My wonderful family is also here or watching and I am grateful for their support as well. There is one family member, though, that is not here and is very much on my mind today. My father died this summer during the selection process and shortly before I was nominated.

There is no one that wanted this for me more than he did, and no one that would have gotten more of a kick out of being here today than he would have. I miss him and very much wish he could be here, but I am fortunate to have my fabulous mother, Rima Burroughs here, my sister, Carol, her husband, Brett, and their children Eli, Tessie, and Topher are watching or at least will be when school is out for the day.

My niece Haley, who is a high school senior is here today. I know she is hoping to get an interesting college essay out of her experience in Washington. My brother, her father, Warren Burroughs, Jr., her mother, Cindy, and her sister Linsey, along with my other siblings, Cathy and John are also watching today. John's wife, Anita as well as my Aunt Jean and her family.

My husband, Mike Leslie's family is also watching, his parents, John and Susan, his brothers, Bill and John and their families. And last, but certainly not least, I want to mention my husband Mike Leslie and our boys Jake and Harry who are sitting in back and are 4-years old.

My husband is also a lawyer and I know he too feels very honored and humbled to be a part of this proceeding today. I think that Jake and Harry are enjoying their first trip to Washington, although Harry did tell me he was looking forward to my concert today and I can only hope he is not disappointed.

[Laughter.]

Ms. BURROUGHS. I thank you, again, for your consideration and I look forward to your questions.

Senator FEINSTEIN. Thank you very much.

[The biographical information of Ms. Burrough appears as a submission for the record.]

Senator FEINSTEIN. Ms. Davidson.

**STATEMENT OF JEANNE E. DAVIDSON, NOMINEE TO BE  
JUDGE OF THE U.S. COURT OF INTERNATIONAL TRADE**

Ms. DAVIDSON. Good morning. Thank you, Senator Feinstein, for chairing this hearing and for your kind introduction. I would like to thank the Committee for holding this hearing and I would like to thank President Obama for the honor of nominating me to the Court of International Trade. I also would like to wish Senator Grassley happy birthday.

I would like to thank all of my friends and family who could not be here today, but are watching on the webcast in California, New

York, Maryland, and in the District all in one fell swoop. Thanks to all of you for your support.

With one exception, I will limit my introductions to people who are here today. The exception is my parents. They were California natives and members of the greatest generation. My father served in World War II, in the Navy, and then was in the Naval Reserve until he retired. My mother was a public school teacher in California.

With me today are two family members who flew all the way from California, my son, my greatest achievement in life, Jeremy Davidson Hoffman. He obtained his bachelor's and master's degree in computer science at Stanford University and is now a senior software engineer at Google.

My brother, Dr. John Michael Davidson, served in the Army during the Vietnam war era and then went on to obtain a doctorate in physics and for 35 years worked at the Jet Propulsion Laboratory in Pasadena where I can only describe his job as rocket scientist.

My sister, Mary Elizabeth Davidson, is here today with her husband Matthew Seiden. They met almost 45 years ago when they were both serving in the Peace Corp in Brazil. Their son, Gabe Seiden, is here today. He also served in the Peace Corp many years later in Guatemala and is the proud father of Zev and Jacob Seiden.

I would like to recognize some family friends, Virginia Lum and Dr. Robert Young, originally from the State of Hawaii, but now from the State of Maryland. My colleagues from the Federal Circuit Bar Association, of which I am privileged to serve as the president, currently, are here today and I welcome their support.

Finally, I would like to recognize the lawyers from the Department of Justice, many of them are here today, with whom I have had the privilege of serving for almost 30 years and who are extraordinary, dedicated, talented group of lawyers. I would particularly like to mention those from the National Court Section in the Office of Foreign Litigation.

Thank you very much.

Senator FEINSTEIN. Thank you. You have pretty much filled up the place.

[The biographical information of Ms. Davidson appears as a submission for the record.]

Senator FEINSTEIN. Mr. Gilliam.

**STATEMENT OF HAYWOOD STIRLING GILLIAM, JR., NOMINEE TO BE DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA**

Mr. GILLIAM. Thank you, Senator Feinstein. Thank you very much for your kind introduction and for recommending me to President Obama. I deeply appreciate the trust that you have placed in me.

Thank you to Ranking Member Grassley and the rest of the Committee for holding today's hearing. I am honored to be here today to answer your questions.

I thank President Obama for placing his trust in me by nominating me to this very important position.

I would like to acknowledge my family who have traveled here today. My wife, Estela Lopez Gilliam—Stella and I met when we were young lawyers speaking to a class of tenth graders—who were reading “To Kill a Mocking Bird”—about our jobs as lawyers. I can tell the young lawyers here always take the chance to do volunteer work when you can because it paid off for me. We celebrated our 12th anniversary this past June.

My daughter, Maya Pearl, is here as well. Maya is a fourth grader at Hillcrest Elementary School in Oakland, California. She is very excited about the opportunity to visit the Smithsonian this week and we are hoping that her teachers give her extra study credit for that.

My parents, Dr. Haywood Gilliam, Sr. and Audrey Gilliam have traveled from Alameda, California to join me today. I appreciate their support.

I would like to also acknowledge four people who are not here, but who are very much here with me in spirit, and that is my grandparents John and Pearl Bryant and Marvin and Emma Gilliam. I know that if they were here, they would be very proud. I can say with certainty without the love and support and encouragement of my family members, there would be no way that I could be sitting here before you as a nominee to the Federal bench.

Finally, I would like to recognize those who are joining us today on the webcast, especially the folks in California who got up very early to view these proceedings. Thank you to everyone watching on the webcast.

Thank you, again, and I very much appreciate the opportunity to be here before you today.

Senator FEINSTEIN. Thank you, Mr. Gilliam.

[The biographical information of Mr. Gilliam appears as a submission for the record.]

Senator FEINSTEIN. Mr. Mehta.

**STATEMENT OF AMIT PRIYAVADAN MEHTA, NOMINEE  
TO BE DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA**

Mr. MEHTA. Thank you, Senator Feinstein. I would also like to thank the Chairman and the Ranking Member for convening the meeting today. I wish Senator Grassley a happy birthday. I would also like to thank Senator Feinstein for chairing the meeting.

I would like to thank Congresswoman Norton for her kind introductory remarks as well as her faith in me, and nominating me to the President as well as her nominations commission for considering my application and recommending me to the Congresswoman. I would also like to thank President Obama for the honor and the privilege of the nomination. I thank him very much for the trust that he has placed in me.

I would like to acknowledge my family and friends who are here today, starting with my wife and best friend, Caroline Mehta. We have been married for 9 years and without her, I certainly would not be here today.

My daughter, Devan, who is 7 years old—she is a second-grader at John Eaton Elementary here in Washington, DC. She is here and this is her first true civics lesson. My son Kian, who is 3 years old is here as well.

My Parents, Priyavadan and Ragini Mehta are here from Baltimore, Maryland. My parents came to this country 42 years ago. My presence here today is a testament to them as well as the opportunities that this country has afforded my family.

My sister, Sheetal Prasad, is here from New York city. I would like to acknowledge my in-laws, my wife's parents, Charles and Susan Judge, who could not be here today. My wife is fond of saying that I have already met the most important Judges in my life, and she is right about that.

My dear friends are here, my law partners and dear friends William Taylor, Roger Zuckerman, and Susan Taylor. I would also like to acknowledge my friends Marybeth Rathman, Ephraim Leavy and Michael Zamor who are here as well.

Last, I would like to thank Este Berwinkle for being here. Ms. Berwinkle is staying with our family from South Africa for the year and this is a nice way for her to see how the American judicial and Congressional process work.

Thank you.

Senator FEINSTEIN. Thank you very much.

[The biographical information of Mr. Mehta appears as a submission for the record.]

Senator FEINSTEIN. We will now go to questions. I will ask our distinguished Ranking Member, Senator Grassley, to begin.

Senator GRASSLEY. Well, thank you. I usually only ask one or two questions of each of you here orally. I submit questions for response in writing and sometimes when those come back, we ask for further elaboration on some of the questions. So do not be surprised if you get questions in writing and maybe even followups.

I am going to start with Ms. Burroughs. I have three or four questions of which I am only going to ask one, but they deal with the issue of the death penalty.

In the case of the Boston bomber, you wrote that a decision to forego the death penalty "would have required political courage"—just a short explanation of what you meant by the statement.

Ms. BURROUGHS. Thank you for giving me an opportunity to address that topic. The marathon bombing case was, obviously, a high profile case in Boston. It struck at an iconic event in both Boston and in the United States. There is obviously a lot of strong emotion over what should happen to the defendant in that case.

Because it was so high profile and the crime so atrocious, including the taking of a life of a small child, to forego the death penalty in that case, I believe, would have required political courage of a different sort than, perhaps in a more run of a mill, gang kind of case.

Senator GRASSLEY. And just a short answer to this question. Do you hold any personal views regarding the death penalty that would make you unable to impose it if the law required it?

Ms. BURROUGHS. No, Senator, I do not.

Senator GRASSLEY. All right. Now I am going to go on to Ms. Davidson.

In a 2004 panel you said, "your credibility before the court is your most important asset as a lawyer." If confirmed, how would you evaluate the credibility of lawyers who appear before you?

Ms. DAVIDSON. Thank you, Senator. If confirmed, I would prepare very carefully and very thoroughly for every case that came before me, and I would evaluate the credibility of the lawyers based upon their candor in making their arguments to the court, whether their arguments were well-based in the record and in the law, in the Constitution, the statutes, the decisions of the Supreme Court.

Senator GRASSLEY. Thank you.

Mr. Gilliam, you would not know this, but I spend a lot of time considering points of view of whistleblowers. So you have had an interest in that. In your capacity as a partner of a law firm, you represented clients during governmental investigations. You have written extensively on how to conduct investigations and how to deal with whistleblowers. What is your view in the role of whistleblowers?

Mr. GILLIAM. Thank you, Senator. Whistleblowers have a very important role under the law. A number of statutes that I deal with routinely—for example, the False Claims Act, have expressed provisions that provide for whistleblowing. I think that those statutes are clear. They set out the proper process by which whistleblowers can bring claims and by which those claims would be adjudicated.

Were I to have the honor of being confirmed as a District Court Judge, I would follow those precedents in individual cases.

Senator GRASSLEY. Mr. Mehta, you have, I think, had almost an entire career as a defense attorney. If confirmed, you will have to make a transition from an advocate to impartial judge. I am not questioning whether you can do that, but what do you expect will be the most difficult of that transition if it is difficult for you? It may not be. I am not assuming it would be, but I want to know how you would make that transition.

Mr. MEHTA. Senator, I think every part of the transition will be difficult. The position of Federal judge is one that is extraordinarily demanding and obviously quite different than that of the role of the advocate. It is critically important for any Federal judge to be impartial, come to any case with an open mind and particularly in criminal cases it is critically important to be an open-mind with respect to both the Government's position as well as that of the defendant. I can assure you, Senator, that I will approach the position in that way, impartially, fairly, and honestly.

Senator GRASSLEY. Thank you, nominees. Thank you, Madam Chairman.

Senator FEINSTEIN. Thank you very much, Senator Grassley. You have asked the death penalty question I was going to ask of Ms. Burroughs.

I would like to ask each person to quickly go down the line and say why they believe they are—Senator Grassley must excuse himself. There is a Committee hearing, of this Committee, on the subject of net neutrality. So I will just perk along.

I would like each one of you to tell us why you believe that you are well-qualified for the job, how you will handle your caseload which can be very high, and how you feel about being a District Court Judge and what that means. This is not an appellate court. It is a district court.

So perhaps I can begin. Mr. Gilliam, you are for our district court.

Mr. GILLIAM. Thank you, Senator Feinstein. I believe that in my career I have had a broad range of experience that will prepare me well if I am fortunate enough to be confirmed as a district judge.

I began my career as a law clerk for a Federal judge in San Francisco and had the opportunity to see the judicial system from that perspective and have the experience of neutrally evaluating cases and recommending an outcome, not as an advocate, but as a neutral assistant to the judge.

I have represented parties in criminal and civil matters in my career. I have served as a prosecutor for a number of years, and I have also handled matters as a defense counsel on behalf of clients of different types.

I think all of those experiences have prepared me well to evaluate and understand the perspectives of the different participants in the system and reach decisions that are based solely on the controlling law and the fact of any given case. The role of the district court is to follow precedent, apply it to the case before me, and reach a decision that is based on nothing other than those considerations. I think that my career has well-prepared me to do that.

In terms of caseload management, briefly, I think that is critical for a district judge. In our district, it is very common for judges to issue case management orders very early in the case, set out a reasonable schedule and expect the parties to adhere to it unless there is a good reason to depart from it, and especially to urge the parties to meet and confer early in the process to narrow the issues and work out whatever issues they possible can without the intervention of the court.

I think that that is a powerful tool for managing a caseload and a docket. I would intend to implement those sorts of procedures were I to be a district judge.

Senator FEINSTEIN. Thank you very much.

Ms. Burroughs.

Ms. BURROUGHS. Thank you, Senator. Like Mr. Gilliam, I have had a varied career in the law. I have been a law clerk, a prosecutor, and now a defense lawyer in a major law firm.

I love being in the courtroom. I love trial work. I am firmly committed to the principles of our judicial system, that cases are decided by neutral, impartial open-minded, fair judges. I am very interested in being a part of that process.

I am very thrilled about being a district court judge for the reasons I just stated. I love being in a courtroom. I love the woof and warp of it. I love the human drama in there.

The Judge that I clerked for, Judge Norma Shapiro once told me that jurors got it right 95 percent of the time. I think it is more like 98 percent of the time. I think that is unbelievable, and I think about the challenge of getting 12 of my friends to agree to anything, much less a room full of strangers agreeing to something. So I think that our system of justice is really amazing and I am very excited about being a part of the institution that can continue those very wonderful traditions.

In terms of case management, I would also manage my docket proactively. I am a believer that justice delayed is, in fact, justice

denied. I would try and move my docket along as quickly as possible, consistent with fairness and making sure that everybody has an adequate chance to be heard on all of the issues.

Senator FEINSTEIN. Thank you very much.

Mr. Mehta.

Mr. MEHTA. Thank you, Senator. I too have been fortunate to have had a varied career. I have served both in the public sector and worked in the private sector as a criminal defense attorney. I have also had the opportunity to have served—to be an advocate in civil cases, both on the plaintiff side and on the defense side. I have also been fortunate enough to do some appellate work, and I also have clerked.

I think those experiences provide a strong foundation for the challenges that will lie ahead as a Federal district judge if I am so fortunate to be confirmed.

In terms of the caseload question, like my fellow nominees, I would take that, obviously, quite seriously. It is critically important that a Federal judge at the district court level move cases along. It is critically important that judges come in day after day and commit themselves to the hard work of making decisions so that the parties before them and the public have the confidence that the judicial process is working and working efficiently.

I too look forward, if I am so honored to be confirmed, to be part of the institution. It would be no greater honor in my career than to serve the people of the District of Columbia in that capacity.

Senator FEINSTEIN. Thank you very much. Let me just ask you one question. Now you have been a criminal defense lawyer for—now that is a critical role, obviously, but for a long time. Do you feel you can look with an open mind at the facts on both sides?

Mr. MEHTA. I do, Senator Feinstein. I recognize that my role as an advocate on behalf of defendants is a very different role than the one I would play as a jurist.

A jurist must be impartial, must be fair, and open-minded to all the parties in every kind of case that comes before him or her. Certainly in criminal cases I would do that. The government has a very strong interest on behalf of the people in any courtroom in any criminal case. I would give that interest as much due consideration as that of the defendant.

Senator FEINSTEIN. Thank you very much.

Ms. Burroughs. Oh wait. We did that. Sorry, Ms. Davidson.

Ms. DAVIDSON. Yes. Thank you, Senator.

Senator FEINSTEIN. For the court. The court you are going to be serving on is a little bit different. Perhaps, you would tell us what you anticipate and how you would handle it.

Ms. DAVIDSON. Yes. Well many of the considerations are the same, so the question applies almost equally to the Court of International Trade.

I am qualified to be a judge in that court because I am extremely familiar with international trade law as a result of my practice over many years. I am qualified to be a judge because I have been both in private practice and at the Department of Justice. I have appeared before numerous judges personally, both at the trial and the appellate levels. So I am very comfortable in the courtroom and



I know what the transition will be like to move to the other side of the bench and to assume the very different role as a judge.

I also have worked with bar associations throughout my whole career where often I am one of the very few government lawyers in the bar association and I have listened carefully to the concerns of private counsel and found that often our underlying interests are not all that different. And at the Department of Justice a large part of my role as a supervisor is evaluating the Government's arguments and critiquing them and serving as a moot court judge for younger lawyers who are going to court. So I am very familiar with questioning the Government's arguments.

In terms of caseload, I know from my practice and from my work with the private bar how important it is to have an expedited review system for courts to resolve cases promptly in the commercial world, in the criminal world, in every aspect of the law. I would be very conscious of that.

I think I could bring to the Court of International Trade some new ideas for case management and technology that I have gained through my work in other courts. As a trial court judge, I would view my role in addition to the role of every judge of being fair, impartial, objective—I also would view my job as making sure that the record was fully developed, cognizant that the case might go up on appeal. So I would want to be sure that I completely understood the arguments that the parties were making and the issues that were raised and that the record was complete and clear in case the court went up on appeal.

Finally, as a national court, the Court of International Trade has jurisdiction over the entire country, and I would be cognizant that it is not just a court that sits in New York and decides cases in New York, but must look throughout the country. I am familiar with that role because I also work in other national courts, the Court of Federal Claims and the Court of Appeals for the Federal Circuit.

So the national courts have a different role than the district courts. I would be very cognizant of that responsibility to look throughout the United States and not just within the courtroom in New York.

Thank you.

Senator FEINSTEIN. Thank you.

I think as Senator Grassley has said, this is not a controversial panel. It is a well-qualified panel of individuals who have sufficient background, history, commitment, and particularly in the law. I want people to know that this is a relatively short hearing as these things go, but that is not to say that you each have not been scrupulously evaluated by staff who go through volumes of paper. Even the slightest little thing can be brought to our attention. I think the statements you made are really cognizant of the roles that you will go into and very well handled.

So I am just going to say we will do our best to get this before the full Committee as soon as possible, and hopefully confirmed also as soon as possible. So thank you everybody, families, everyone for coming.

I would like to just announce that the record will be held open for 1 week. Thank you very much.

The hearing is adjourned.  
[Whereupon, at 10:46 a.m., the Committee was adjourned.]  
[Additional material submitted for the record follows.]

# **A P P E N D I X**

## **ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD**

Witness List

Hearing before the  
Senate Committee on the Judiciary

On

“Judicial Nominations”

Wednesday, September 17, 2014  
Dirksen Senate Office Building, Room 226  
10:00 a.m.

Allison Dale Burroughs, to be a United States District Judge for the District of Massachusetts

Jeanne E. Davidson, to be a Judge of the United States Court of International Trade

Haywood Stirling Gilliam, Jr., to be a United States District Judge for the Northern District of  
California

Amit Priyavadan Mehta, to be a United States District Judge for the District of Columbia

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Allison Dale Burroughs

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

United States District Judge for the District of Massachusetts

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: Nutter McClennen & Fish, LLP  
155 Seaport Boulevard  
Boston, Massachusetts 02210

Residence: Waban, Massachusetts 02468

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

1961; 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.

1985 – 1988, University of Pennsylvania Law School; J.D. (*cum laude*), 1988

1979 – 1983, Middlebury College; B.A. (*cum laude*), 1983

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.

2005 – present  
Nutter McClennen & Fish, LLP  
155 Seaport Boulevard

Boston, Massachusetts 02210

Partner

1995 – 2005

U.S. Attorney's Office, District of Massachusetts

One Courthouse Way, Suite 9200

Boston, Massachusetts 02210

Assistant United States Attorney (1995 – 2005)

Organized Crime and Drug Enforcement Task Force (1995 – 1997)

Economic Crimes Unit (1997 – 2005)

Senior Litigation Counsel, Economic Crimes Unit (approximately 2000 – 2003)

Money Laundering Coordinator, Economic Crimes Unit (approximately 1997 – 2005)

Computer Crime and Telecommunications Coordinator, Economic Crimes Unit

(approximately 1998 – 2005)

Supervisor, Computer Hacking and Intellectual Property Section, Economic Crimes Unit

(approximately 2002 – 2005)

1989 – 1995

U.S. Attorney's Office, Eastern District of Pennsylvania

615 Chestnut Street, Suite 1250

Philadelphia, Pennsylvania 19106

Assistant United States Attorney

Organized Crime and Racketeering Strike Force

1988 – 1989

Judge Norma L. Shapiro

United States District Court for the Eastern District of Pennsylvania

601 Market Street

Philadelphia, Pennsylvania 19106

Judicial Law Clerk

Summer 1988

Ropes & Gray

800 Boylston Street

Boston, Massachusetts 02109

Summer Associate

July – August 1987

Williams & Connolly

725 Twelfth Street, N.W.

Washington, DC 20005

Summer Associate

May – July 1987  
Mintz Levin Ferris Cohn Glovsky and Popeo, PC  
One Financial Center  
Boston, Massachusetts 02110  
Summer Associate

Summer 1986  
Hoyle Morris & Kerr (now defunct)  
One South Broad Street, Suite 1500  
Philadelphia, Pennsylvania 19107  
Summer Associate

Approximately September 1987 – May 1988  
University of Pennsylvania Law School  
3501 Sansom Street  
Philadelphia, Pennsylvania 19104  
First Year Legal Writing Instructor (approximately September 1987 – May 1988)  
Research Assistant for Professor Leo Levin (approximately September 1987 – May 1988)

January – August 1985  
Effective Government Committee (now defunct)  
Washington, DC  
Political Director

December 1984 – August 1985  
Voter Contact Services (now part of L2)  
Washington, DC  
Sales Consultant

August – November 1984  
Voter Contact Services  
(now part of L2)  
Honolulu, Hawaii  
Sales Consultant

January – August 1984  
Americans with Hart  
Washington, DC  
Regional Field Coordinator

October 1983 – January 1984  
Democratic Congressional Campaign Committee  
430 South Capitol Street, S.E.  
Washington, DC 20003  
Assistant Press Secretary

August – October 1983  
 Congressman Matthew McHugh  
 U.S. House of Representatives  
 Washington, DC  
 Congressional Intern

Fall 1983 – Summer 1984  
 Bullfeathers of Capitol Hill  
 410 First Street, S.E.  
 Washington, DC 20003  
 Waitress

Other Affiliations (uncompensated unless otherwise indicated)

2007 – present  
 Womenade Boston  
 Boston, Massachusetts  
 Founding Member (2007)  
 Board Member (2007 – present)  
 Vice President (2007 – 2013)

2007 – present  
 Mahoning Valley Scrappers  
 c/o Michael K. Savitt  
 HWS Group  
 572 Washington Street  
 Suite 7  
 Wellesley, Massachusetts 02482  
 Investor (0.5% class B membership interest)

Approximately 1998 – present  
 Middlebury College  
 14 Old Chapel Road  
 Middlebury, Vermont 05753  
 Class Agent (approximately 1998 – present)  
 Class Secretary (2013 – present)

1996 – present  
 Agassiz Village  
 238 Bedford Street, Suite 8  
 Lexington, Massachusetts 02420  
 Board Member (1996 – present)  
 Board President (2006 – 2013)

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 was not required to register for selective service.

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.

Professional:

Chambers and Partners, Leading U.S. White-Collar Crime & Government Investigations  
Litigation Attorney (2010 – 2013)

Litigation Counsel of America, Fellow (2011 – present)

The Best Lawyers in America (2013, 2014)

Massachusetts Super Lawyers (2011 – 2014)

Super Lawyers Business Edition (2012, 2013)

Super Lawyers Top Women Attorneys in Massachusetts (2012, 2013)

2013 Corporate International Magazine Legal Award – Business Crime Lawyer of the  
Year in Massachusetts (2013)

2013 International Global Law Experts Awards – Business Crime Lawyer of the Year in  
Massachusetts (2013)

Federal Bureau of Investigation “In Appreciation for Your Prosecutive Skills Throughout  
the Years” (2005)

Internal Revenue Service plaque “In Recognition of Your Outstanding Contributions,  
Dedication and Support of the Boston Field Office of I.R.S. Criminal Investigation”  
(2005)

Director’s Award for Superior Performance as an Assistant United States Attorney  
(2004)

United States Customs Service Certificate of Appreciation (approximately 2003)

United States Secret Service Certificate of Appreciation “In Recognition of All Your  
Effort and Dedication in the U.S. Customs Service investigation of Barakaat North  
America Incorporated” (approximately 2002)



Boston Police, Detective Benevolent Society Award of Excellence (2001)

U.S. Customs “Queen of Money Laundering” plaque “In Recognition of Your Significant Contributions and Tireless Efforts in Support of Eliminating the Scourge of Money Laundering in New England” (2000)

Director’s Award for Superior Performance as an Assistant United States Attorney (1998)

United States Secret Service Certificate of Appreciation (1998)

Organized Crime Drug Enforcement Task Forces Certificate of Appreciation (1997)

Drug Enforcement Administration Certificate of Appreciation (1997)

New England Organized Crime Drug Enforcement Task force plaque “In Appreciation for Outstanding Work Conducted on Operation Crackdown” (approximately 1997)

F.B.I. and I.R.S. plaque for “Dedication and Outstanding Service” in “Cash Unlimited” Investigation (1995)

Director’s Award for Superior Performance as an Assistant United States Attorney (1994)

FBI plaque “In Recognition of your Outstanding Prosecutorial Support in the FBI Task Force Investigation of the Junior Black Mafia” (1993)

I also received other performance commendations from the Department of Justice and the U.S. Attorneys’ Offices, as well as various federal and state agencies and community groups for specific cases and outreach efforts.

Educational:

University of Pennsylvania Law Review, Editor (1987 – 1989)

University of Pennsylvania Law School, Selected to teach legal writing to first year students (1988 – 1989)

Middlebury College, Dean’s List (1980 – 1983)

Middlebury College, High Honors Political Science (1983)

Middlebury College, Mortar Board and College Scholar, awarded at graduation for academic performance, (1979 – 1983)

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.

American Bar Association

Boston Bar Association

- Criminal Law Section Steering Committee (2006 – present)
- Education Committee (2012 – present)
- Annual Meeting Luncheon Steering Committee (2011)
- Wrongful Conviction Task Force (2009)

First Circuit Rules Advisory Committee (2012 – 2014)

Litigation Counsel of America  
Fellow (2011 – present)

Massachusetts Supreme Judicial Court

- Appointed as Special Counsel to the Committee on Professional Responsibility for Clerks of the Courts (2011)
- Appointed as Special Counsel to the Committee on Professional Responsibility for Clerks of the Courts (2014)

National Association of Assistant U.S. Attorneys

Women's Bar Association

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.

Pennsylvania, 1989  
Massachusetts, 1996

From 1996 to 2012, I was inactive in Pennsylvania. In 2012, my status changed from "inactive" to "administratively suspended" as a result of administrative changes in categories of 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 District Court for the Eastern District of Pennsylvania, 1989  
Massachusetts State Courts, 1996  
United States Court of Appeals for Sixth Circuit Court of Appeals, 2006

United States District Court for the District of Massachusetts, 2007  
 United States Court of Appeals for the First Circuit, 2013

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.

Agassiz Village (1996 – present)

Trustee and Board Member (1996 – present)

Board President (2006 – 2013)

Development and Events Committee (approximately 1997 – present)

Governance Committee (approximately 2006 – present)

Belmont Country Club (approximately 1995 – present)

Middlebury College Alumni Association (approximately 1998 – present)

Class Agent (approximately 1998 – present)

Reunion Committees (various)

Class Secretary (2013 – present)

National Association of Assistant U.S. Attorneys (approximately 1993 – 2011)

Newton Police Chief Search Committee (2013)

Womenade Boston (2007 – present)

Founding Member (2007)

Board Member (2007 – present)

Vice-President (2007 – 2013)

- 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.

My parents were members of the Belmont Country Club before I was born, and I became a member in my own right in 1996. During the early years of my membership, the Belmont Country Club gave male members preferential treatment, such as the early weekend tee times. Otherwise, to the best of my knowledge, none of the organizations listed above 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.

Summer 2014: "When is Hacking a Crime? Potential Revisions to the CFAA," by Allison D. Burroughs, Benjamin L. Mack and Heather B. Repicky, Boston Bar Journal. Copy supplied.

June 2014: "The War on Buckyballs: Park Doctrine Gone Awry," by Allison D. Burroughs and Dahlia Rin, Bloomberg BNA Product Safety & Liability Reporter. Copy supplied.

February 18, 2014: "Is Death Penalty Ever Worth the Cost?," Boston Globe Podium Blog. Copy supplied.

May 22, 2013: "Caronia: Off-Label Marketing and the First Amendment" by Allison Burroughs and Timothy Reppucci, Boston Bar Association, published in connection with CLE "Health Care Fraud 2013: There Are New Sheriffs in Town." Copy supplied.

November/December 2012: "Clues to the Future of the *Park* Doctrine" by Allison D. Burroughs and Dahlia Rin, FDLI Update. Copy supplied.

2012, 2009, 2008: "Off-Label Promotion: Government Theories of Prosecution and Facts That Drive Them" in *Off-Label Communications: A Guide to Sales and Marketing Compliance*, (2008, 2009 and 2012 eds.) (2009 edition reprinted in Food and Drug Law Journal, vol. 65, no. 3 2010). For each edition, I authored the chapter through Section III and contributed to Section V. Copies supplied.

July 2012: "Reasonable Expectations of Privacy in the Digital Age," by Allison D. Burroughs and Heather B. Repicky, Association for Corporate Counsel – Northeast Chapter e-newsletter. Copy supplied.

April/May 2012: "The Whitey Bulger Case: Balancing the Rights of Victims and the Accused," by Allison D. Burroughs, Dahlia Rin and Benjamin L. Mack, Criminal Law Bulletin. Copy supplied.

February 2012: "Supreme Court Rules That A Warrant Is Needed For GPS Tracking," by Allison D. Burroughs and Heather B. Repicky, Nutter Client Advisory. Copy supplied.

December 29, 2011: "The Whitey Bulger Case and the Right to be Heard," by Allison Burroughs, Dahlia Rin and Benjamin L. Mack, Massachusetts Lawyer's Weekly. Copy supplied.

July 2011: "A Primer for Litigating Against the Massachusetts Securities Division," by Jonathan L. Kotliar and Allison D. Burroughs, The Boston Bar Journal. Copy supplied.

February 2010: "State Law Enforcement in New England and the Mid-Atlantic Affecting Pharmaceutical and Medical Device Companies," Allison D. Burroughs and Christopher R. Hall, Esq. of Saul Ewing, Client Advisory. I edited the portions relating to the New England states. Copy supplied.

February 2009: "'McNulty Memo' Changes Bit of Victory for Corporate Rights," by Allison D. Burroughs and Maya L. Sethi, New England In-House Newsletter. Copy supplied.

2009: CyberCrime: How to Handle Computer Crime Issues, published in connection with MCLE, Inc., seminar. I co-authored Section 2 ("Responding to a Data Security Breach: It's a Complex New World") with Matthew D. Hanaghan and Section 3 ("Your Company's Data is Threatened: Immediate Decisions About Whether to Involve Law Enforcement & How to Preserve Evidence?") with Seth P. Berman. Copy supplied.

2006: "The Investigation Checklist," Nutter Client Advisory. Copy supplied.

October 2006: "Deciding to Involve Law Enforcement When Your Computer System is Hacked Can Be a Tough Call," New England In-House Newsletter (reprinted as a Nutter Client Advisory). Copies supplied.

July 19, 2006: "Manipulation of Stock Options: Caution Flag Out as Problems Emerge Through SEC and DOJ Investigations," by Allison Burroughs and Sarah Walters, Nutter Client Advisory. Copy supplied. (Reprinted for the Suffolk Law School/Sawyer Business School Symposium on Ethics and Governance Enforcement: Implications for Domestic and Global Business, November 2006).

June 21, 2006: "Your Company's Computer System Has Been Compromised: What Factors Should You Consider in Deciding to Involve Law Enforcement?," published in connection with MIT Sloan CIO Symposium titled "Maximizing the Business Value of It." Copy supplied.

- 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.

December 2009: "Getting it Right: Improving the Accuracy and Reliability of the Criminal Justice System in Massachusetts." As a member of the Boston Bar Association Task Force, I researched some best practices and provided editorial input. Copy supplied.

- 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.

October 24, 2011: Letter to the Charlestown Mothers Association regarding Agassiz Village. Although, as a Board member, my name appeared on the letterhead, I did not sign the letter; and, to the best of my knowledge, I did not participate or consult in any way in its preparation, and the Board was never asked to vote on or approve its contents. Copy supplied.

October 4, 2010: Letter to the Honorable Patrick Leahy, Russ Feingold, John Conyers, Jr., and Jerrold Nadler regarding *Citizens United v. FEC*. 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.

After diligent review of my files, calendar, and the Internet, I have done my best to account for all speaking engagements below although it is possible that I have inadvertently left out an engagement.

From 2005 to the present, I have guest lectured at various classes. My guest lectures at the Franklin Pierce Law School and at a graduate level computer science class at MIT, involved discussions of computer crime statutes and prosecutions. I facilitated a module of the Harvard Law School first year law student problem solving course in 2012, and I regularly speak to the Harvard Law School Government Lawyer Class on various topics, including women in law, prosecutorial discretion, or transitioning to private practice after a career in government. I do not recall these events specifically, nor did I keep records of them.

From 1996 to the present, as part of my responsibilities with Womenade and Agassiz Village, I have given welcome remarks at various fundraising and outreach events. The focus of these remarks was to welcome people to the events and help educate them about Agassiz Village and Womenade. I do not recall these events specifically, nor did I keep records of them. The address for Agassiz Village is 238 Bedford Street, Suite 8, Lexington, Massachusetts 02420. Womenade has no physical address.

June 25, 2014: Panelist, "The Corporation as Victim: Cyber Crime, Hacking & Data Breach," Association of Corporate Counsel (ACC) Northeast Chapter Program, Boston, Massachusetts. Outline and recording supplied.

March 24, 2014: Moderator, "Compliance Programs and Corporate Monitors – If the Compliance Program Fails, a Corporate Monitor May be Necessary," Boston Bar Association, Boston, Massachusetts. I prepared the outline for and moderated the first panel on compliance programs. I also stepped in for a colleague and moderated the second panel on monitors using an outline that he prepared. Outlines supplied.

January 21, 2014: Co-host, "2014 White Collar Roundtable Breakfast," New England Women in White Collar Defense, Boston, Massachusetts. The presentation was on recent developments in white collar law and practice. I discussed developments in health care investigations and prosecutions. I have no notes, transcript or recording. The New England Women in White Collar Defense does not have a physical address.

May 29, 2013: Moderator and panelist, "Avoiding the Crosshairs of Law Enforcement: New Technologies and Perspectives in Compliance," Association of Corporate Counsel Northeast Chapter Program, Boston, Massachusetts. I moderated a discussion on innovations in compliance and spoke on the same topic. Materials made available to the attendees previously supplied in response to Question 12a.

May 22, 2013: Panelist, "Health Care Fraud 2013: There Are New Sheriffs in Town," Boston Bar Association, Boston, Massachusetts. Materials previously supplied in response to Question 12a and recording supplied.

February 13, 2013: Panelist, "Fraud: Separating Fact from Fiction," Turnaround Management Association (TMA) Northeast, Boston, Massachusetts. I believe that my remarks focused on red flags that might indicate fraudulent behavior and how fraud could impact a company. I have no notes, transcript or recording. The address for TMA Northeast is P.O. Box 266, Concord, Massachusetts 01742.

January 9, 2013: Panelist, "Theft of Trade Secrets and Other Business Information," Boston Bar Association, Boston, Massachusetts. The presentation

was focused on protecting proprietary information and legal responses to the theft of trade secrets and other confidential information. I discussed the relevant statutes, as well as considerations of when and whether to involve law enforcement. I have no notes, transcript or recording. The address for the Boston Bar Association is 16 Beacon Street, Boston, Massachusetts 02108.

December 10, 2012: Panelist, "Technology, Crime and the Workplace: New Developments and Strategies," Boston Bar Association, Boston, Massachusetts. The presentation was on issues arising from the increased use of technology in the workplace. I discussed the Computer Fraud and Abuse Act, the Stored Communications Act, and recent legal developments concerning GPS monitoring and employer access to employee social media accounts. I have no notes, transcript or recording. The address for the Boston Bar Association is 16 Beacon Street, Boston, Massachusetts 02108.

November 19, 2012: Panelist, "Life Sciences Industry – Managing Increasing Legal Risks," Boston Bar Association, Boston, Massachusetts. The presentation was on the increasing legal risks faced by life sciences companies. I discussed strategies to mitigate enforcement risk. I have no notes, transcript or recording. The address for the Boston Bar Association is 16 Beacon Street, Boston, Massachusetts 02108.

October 10, 2012: Panelist, "Technology, Crime & the Workplace: New Developments and Strategies for In-House Counsel," Association of Corporate Counsel (ACC) Northeast Chapter Program, Boston, Massachusetts. Materials previously supplied in response to Question 12a.

December 6, 2011: Panelist, "Hot Topics in Civil Enforcement: 2011 Review, 2012 Preview," Food and Drug Law Institute (FDLI) Enforcement, Litigation and Compliance Conference, Washington, DC. Annotated outline supplied.

October 20, 2011: Panelist, "Sentencing Issues Including Departures and Variances," U.S. District Court Seminar on Federal Sentencing, Boston, Massachusetts. The presentation was on sentencing issues. I discussed sentencing strategies from the defense perspective. I have no notes, transcript or recording. The address for the U.S. District Court is One Courthouse Way, Boston, Massachusetts 02210.

September 22, 2011: Panelist, "Sentencing: Getting Outside the Guidelines," National Association of Criminal Defense Lawyers' (NACDL) 7th Annual Seminar on Defending the White Collar Case, New York, New York. I discussed strategies to manage loss calculations under the Federal Sentencing Guidelines. I have no notes, transcript or recording. The address for NACDL is 1660 L Street, NW, 12th Floor, Washington, DC 20036.



April 27, 2011: Panelist, "From Investigation to Sentencing – What to Expect," New England High Tech Crime Conference, Boston, Massachusetts. Outline supplied.

April 13, 2011: Panelist, Federal Court Judicial Forum, Boston, Massachusetts. This is an annual forum that creates an opportunity for members of the bar to hear directly from the bench on federal practice and procedure. I was a member of the lawyer panel, which took turns asking the judges questions. I have no notes, transcript or recording. The address for MCLE, Inc. is Ten Winter Place, Boston, Massachusetts 02108.

February 16, 2011: Moderator, "Trying White Collar Cases," Boston Bar Association, Boston, Massachusetts. I moderated the portions of the panel discussion that focused on jury selection, technology in the courtroom and whether defendants should ever testify. I have no notes, transcript or recording. The address for the Boston Bar Association is 16 Beacon Street, Boston, Massachusetts 02108.

December 13, 2010: Panelist, "What to Do When You Meet the Massachusetts Securities Division – A Defense Lawyer's Perspective," Boston Bar Association, Boston, Massachusetts. The presentation was on litigating before the Massachusetts Securities Division. I have no notes, transcript or recording. The address for the Boston Bar Association is 16 Beacon Street, Boston, Massachusetts 02108.

October 2010: Presenter, Massachusetts CJA Panel on wiretaps, Boston, Massachusetts. I discussed the statutory requirements for getting a wiretap authorized and potential means of suppressing or limiting the use of wiretap information at trial. I have no notes, transcript or recording. The address for the U.S. Federal Defenders Office is 51 Sleeper Street, 5th Floor, Boston, Massachusetts 02210.

March 16, 2010: Panelist, "Crime and Computer Forensics in the Workplace: Search, Employment and Technical Issues When Bad Things Happen in Good Companies," Boston Bar Association, Boston, Massachusetts. Outline supplied.

February 18, 2010: Presenter, "Canary in the Mineshaft: State-Level Regulatory and Enforcement Trends," Boston, Massachusetts. PowerPoint supplied.

July 9, 2009: Faculty member, Seminar titled "Cybercrime: How to Handle Computer Crime Issues (MCLE, Inc. 2009)," Massachusetts Continuing Legal Education, Boston, Massachusetts. Materials previously supplied in response to Question 12a.

November 18, 2008: Moderator, "Criminal Law Section, Sentencing and Revocation Advocacy and Alternatives Post Gall and Kimbrough: What Works

and What Does Not,” Boston Bar Association, Boston Massachusetts. Panelists discussed impact of *Gall* and *Kimbrough* in sentencing. I have no notes, transcript or recording. The address for the Boston Bar Association is 16 Beacon Street, Boston, Massachusetts 02108.

September 23, 2008: Co-leader, “Computer Search and Seizure,” Boston Bar Association, Boston, Massachusetts. Outline supplied.

May 18, 2007: Panelist, “Searching and Seizing Computers,” The Commonwealth of Massachusetts Administrative Office of the Trial Court, Judicial Institute training on “Cyber Issues for Judges,” Boston, Massachusetts. PowerPoint supplied.

November 16, 2006: Panelist, “Ethics & Governance Enforcement: Implications for Domestic and Global Business,” Suffolk University, Boston, Massachusetts. Materials previously supplied in response to Question 12a.

October 24, 2006: Program Co-Chair and Moderator, “Top Guns: Criminal Trial Attorneys,” Boston Bar Association CLE Seminar, Boston, Massachusetts. Outline supplied.

May 24, 2006: Moderator, “When a Government Investigation Looms: The Nuts and Bolts of Managing a Crisis,” Association of Corporate Counsel Northeast Chapter Program, Boston, Massachusetts. Materials previously supplied in response to Question 12a.

March 31, 2006: Speaker, “Criminal Enforcement of Anti-counterfeiting & Antipiracy,” Franklin Pierce Law Center Annual Symposium, Concord, New Hampshire. PowerPoint supplied.

February 16, 2006: Panelist, “Case Study: When Sweet Charity Goes Sour,” Association of Corporate Counsel (ACC) Northeast Chapter Program, Boston, Massachusetts. I participated in a case study. Factual scenario and PowerPoint supplied.

April 28, 2005: Panelist, “Computer Searches & Computer Crime Prosecutions,” Boston Bar Association CLE Seminar, Boston, Massachusetts. PowerPoint and notes supplied.

While at the U.S. Attorney’s Office for the District of Massachusetts from 1995 to 2005, I frequently spoke extemporaneously at various events related to my work. From approximately 1998 to 2005, these events included presentations to attendees at safety fairs, parent groups, and industry groups about Internet safety and security. From approximately 1996 to 2002, I participated in Citizen’s School, an after-school enrichment program for inner city children that involved them preparing and trying “criminal” cases before volunteer juries. I also lectured

on occasion at the Department of Justice's National Advocacy Center, including on topics such as basic trial advocacy, money laundering and violent gang prosecutions, although the materials used are law enforcement sensitive. As a general matter, I have no notes, transcript or recording of these events, and I did not keep records of which groups or dates were involved. The address for the District of Massachusetts is Federal Courthouse, One Courthouse Way, Suite 9200, Boston, Massachusetts 02210.

September 13, 2001: Co-speaker with Amy Baron Evans, "Computer Search and Seizure," ABA Regional White Collar Criminal Seminar, Boston, Massachusetts. Outlines supplied.

July 28, 2000: Panelist, "Cybercrime and Corporation Fraud: Rights and Remedies," Massachusetts Continuing Legal Education, Boston, Massachusetts. I discussed the U.S. Attorneys approach to combating cybercrime and reviewed the applicable laws. I have no notes, transcript or recording. The address for Massachusetts Continuing Legal Education is 10 Winter Place, Boston, Massachusetts 02108.

May 25, 2000: Panelist, "Cybercrime: the Role of State and Federal Law Enforcement for Victims of Electronic Crime," U.S. Attorney for the District of Massachusetts, Massachusetts Attorney General and Boston Bar Association, Boston, Massachusetts. Outline previously supplied in response to the September 13, 2001.

February 10, 2000: Speaker, "Cybercrime: Federal Law Enforcement and Options for Victims of Electronic Crime," Boston Bar Association, Boston, Massachusetts. Outline supplied.

January 20, 2000: Speaker, "Cracking Down on Cybercrime," Deloitte & Touche, Boston, Massachusetts. Outline supplied.

Approximately 1998: I travelled to Irkutsk, Siberia and Moscow, Russia with an Office of International Affairs delegation to teach law enforcement officials about U.S. computer crime laws and investigative strategies. We taught for approximately three days in Irkutsk and one day in Moscow. I spoke on the relevant statutes, U.S. legal process and prosecution strategies and priorities. I have no notes, transcript or recording. The address for the Department of Justice's Office of International Affairs is U.S. Department of Justice, Criminal Division, Office of International Affairs, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530.

- 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.

Ronnie Berke, *Dzhokhar Tsarnaev: If Convicted, Will He Get Death Sentence?*, CNN Wire, April 18, 2014. Article and video recording available at: <http://www.cnn.com/2014/04/18/justice/tsarnaev-death-penalty/>.

Holly Bailey, *The Mystery of Tamerlan Tsarnaev's Widow*, Yahoo News, April 14, 2014. Copy supplied.

Milton J. Valencia, *Case Cut Back in Patients' Death*, Boston Globe, April 4, 2014. Copy supplied. (Reprinted in multiple outlets).

Milton J. Valencia, Anush Elbakyan, *Tsarnaev Team May Favor a Trial Here*, Boston Globe, February 1, 2014. Copy supplied

Bob Oakes, *Ex-Prosecutor on How Seeking Death Penalty Affects Tsarnaev Case*, WBUR, January 31, 2014. Audio recording available at: <http://www.wbur.org/2014/01/31/burroughs-legal-ramifications-death-penalty-bombing>.

*Dzhokhar Tsarnaev 'Deserves Death,' Survivor Says*, WCVB, January 31, 2014. Article and video recording available at: <http://www.wcvb.com/news/local/metro/dzhokhar-tsarnaev-deserves-death-survivor-says/24216132#!VrhL1>.

John P. Finnegan, *Three Weeks After Hearing, Bomb-Threat Suspect Still Awaits Formal Indictment*, University Wire, January 10, 2014. Copy supplied.

John Zaremba, *Barred from Harvard Yard*, Boston Herald, December 19, 2013. Copy supplied. (quotations reprinted in multiple outlets).

*Harvard Bomb Hoax Suspect Released on Bail*, WHDH, December 18, 2013. Copy supplied.

*Former Prosecutor: Judge Understands How Important Bulger Case is to Boston*, NECN, November 14, 2013. Article and video recording available at: <http://www.necn.com/news/new-england/247946741.html>.

Patrick Clark, *The Buckyballs Guy is Suing the Feds Over Free Speech*, Businessweek, November 11, 2013. Copy supplied.

Holly Bailey, *Officer Who Released Marathon Bombing Suspect Photos Relieved of Duty; Legal Impact of Photos' Release Unclear*, Yahoo News, July 19, 2013. Copy supplied.

iTalk FM's the Boland Show, April 25, 2013. I have been unable to locate a copy.

Milton J. Valencia, *Saving Him from Death Penalty Will Be Likely Defense Focus*, Boston Globe, April 24, 2013. Copy supplied.

Ashby Jones and Jacob Gershman, *Boston Bombings: Legal Teams Both Have Terror-Case Experience*, The Wall Street Journal, April 24, 2013. Copy supplied. (reprinted in multiple outlets).

Ross Kerber and Scott Malone, *Public Defender Takes on Big Task in Boston Bombing Case*, Reuters, April 23, 2013. Copy supplied.

David Frank, *U.S. District Court Judge Stearns' Recusal Ruling on Bulger not the Final Word on Immunity*, Massachusetts Lawyers Weekly, March 12, 2013. Copy supplied.

Karen Anderson, *Many Are Skeptical as Bulger's Attorney Offers Name in Alleged Immunity Deal*, WBZ-TV, October 25, 2012. Article and video recording available at <http://boston.cbslocal.com/2012/10/25/prosecutors-skeptical-as-bulgers-attorney-offers-name-in-alleged-immunity-deal>.

David Boeri, *Bulger's Defense Continues to Push for Later Trial Date*, WBUR, October 24, 2012. Article and audio recording available at: <http://www.wbur.org/2012/10/24/bulger-defense-continues-to-push-for-later-trial-date>.

Bob Oakes; Benjamin Swasey, *Former US Prosecutor 'Skeptical' of Bulger Immunity Claim*, WBUR, June 26, 2012. Article and Audio recording available at: <http://www.wbur.org/2012/06/26/bulger-case-legal>.

Radio Boston, *The Case Against Catherine Greig*, WBUR, July 14, 2011. Audio recording available at: <http://radioboston.wbur.org/2011/07/14/case-against-greig>.

Mark Arsenault and Stephanie Ebbert, *Despite Notoriety, Bulger No Easy Case*, Boston Globe, July 3, 2011. Copy supplied.

The Early Show, *Bulger Prosecution: Murder Charges the Priority*, CBS, June 29, 2011. Transcript supplied.

Peter Schworm, *Daunting Task for a Defender*, Boston Globe, June 28, 2011. Copy supplied.

Radio Boston, *Why a Lawyer Would Want to Defend "Whitey" Bulger*, WBUR, June 28, 2011. Audio recording available at: <http://radioboston.wbur.org/2011/06/28/defend-whitey-bulger>.

David Frank, *6th Circuit Decision Chills E-mail Seizures*, Rhode Island Lawyers Weekly, April 7, 2011. Copy supplied. (Reprinted in multiple outlets).

Massachusetts Lawyers Weekly Staff, *Bar Counsel Recommends Suspension for Auerhahn*, Massachusetts Lawyers Weekly, December 2, 2010. Copy supplied. (Reprinted in multiple outlets).

Marcella Bombardieri and Jonathan Saltzman, *Vast Body of Evidence Was Collected*, Boston Globe, November 19, 2010. Copy supplied.

Jonathan Saltzman, *Judge Quizzes Witness Who Said He Won't Testify in Turner Trial*, Boston Globe, October 13, 2010. Copy supplied.

David E. Frank, *U.S. Securities and Exchange Commission Widens Insider-Trading Net*, Massachusetts Lawyers Weekly, May 24, 2010. Copy supplied. (reprinted in multiple outlets).

Business Wire, *Nutter McClennen & Fish LLP Releases New Report that Details Aggressive Efforts by States to Regulate Pharmaceutical & Medical Device Firms*, April 20, 2010. Copy supplied.

Boston Bar Association, *Voices of the Bar*, April 9, 2009. Copy supplied.

Boston Bar Association, *Voices of the Bar*, March 11, 2009. Copy supplied.

Sacha Pfeiffer, *Judge Calls Lawyer's Fee 'Excessive,'* Boston Globe, April 30, 2008. Copy supplied.

Mary Alice Robbins, *Prosecutors Challenge Attorney's Fees for Whistle-Blowers' Claims*, Texas Lawyer, November 20, 2007. Copy supplied.

Sacha Pfeiffer, *US Says It's Blowing Whistle on Lawyer's Fee; Calls 33% Share of Award Unfair*, Boston Globe, November 10, 2007. Copy supplied.

David E. Frank, *'Dual Prosecution' by U.S. Attorney May Chill State Pleas*, Massachusetts Lawyers Weekly, August 21, 2006. Copy supplied. (Reprinted in multiple outlets).

Thanassis Cambanis, *Insider Job, with a Vengeance*, Chicago Tribune, June 1, 2003. Copy supplied.

Thanassis Cambanis, *Worker Vengeance Makes its Way Online*, Boston Globe, May 22, 2003. Copy supplied.

Thanassis Cambanis, *Jury Gets Money Transfer Case Somalian Followed Orders, Defense Says*, Boston Globe, April 30, 2002. Copy supplied.

Shelley Murphy, *Prosecutor Breaks into Big Time War Crimes Court Taps Boston Office*, Boston Globe, January 15, 2002. Copy supplied.

Edward Iwata, *Law Enforcers Report Spike in Cybercrime*, USA Today, August 31, 2001. Copy supplied.

Eric Convey and Greg Gatlin, *Staples, Office Depot Team Up in FBI Sting*, Boston Herald, December 7, 2000. Copy supplied.

Margaret Mannix and others, *The Web's Dark Side*, U.S. News & World Report, August 28, 2000. Copy supplied.

*Man Pleads Guilty in NASA Hacking Case*, Vero Beach Press Journal, June 30, 2000. Copy supplied. (Reprinted in multiple outlets).

Greg Gatlin, *Man Enters Guilty Plea in Bogus T-shirt Case*, Boston Herald, February 24, 2000. Copy supplied.

Ross Kerber, *Vandal Arrests Would Only Be the Beginning*, Boston Globe, February 11, 2000. Copy supplied.

Christopher Noble, *Cyber Crime Rising, Hard to Prosecute – US Official*, Reuters News, January 20, 2000. Copy supplied.

Kera Ritter, *Charity Racers Run Into Big Tow Trouble*, Boston Globe, September 13, 1999. Copy supplied.

Steven Wilmsen, *Firm Accused of High-Tech Scam Charged in \$20M Scheme*, Boston Globe, May 21, 1999. Copy supplied.

Todd Wallack, *Techno Terrorism; U.S. Feared Ripe for Cyberattacks; Gov't, Biz Push Computer Security; First of Two Parts*, Boston Herald, August 30, 1998. Copy supplied.

Ralph Ranalli, *Ex-Trooper Found Guilty of Selling Slugger's Rings*, Boston Herald, July 1, 1998. Copy supplied.

Ralph Ranalli, *Roxbury Drug Kingpin Found Guilty of Murder*, Boston Herald, March 28, 1997. Copy supplied.

Gary Cohn, *9 JBM Members Plead Guilty to Drug Charges/24 Members of the Violent Gang Have Now Been Convicted./"The JBM is Gone," A Prosecutor Said*, Philadelphia Inquirer, November 7, 1992. Copy supplied.

Gary Cohn, *Leader of JBM Sentenced to Life Aaron Jones Was Convicted of Conspiring to Distribute \$100 Million in Cocaine*, Philadelphia Inquirer, September 16, 1992. Copy supplied.

Emilie Lounsberry, *3 JBM Figures Guilty on Federal Drug Counts, Agree to Forfeit Fortune*, Philadelphia Inquirer, April 24, 1992. Copy supplied.

Kathy Brennan, *6 Indicted in National Coke Ring*, Philadelphia Daily News, August 22, 1991. Copy supplied.

Jim Smith and Kitty Caparella, *A Dealer to the End, He Cuts Trial Short for 20-Year Sentence*, Philadelphia Daily News, November 29, 1990. Copy supplied.

*Jury Says Ex-Guard, 2 Others Ran \$40 Million Cocaine Ring*, Allentown Morning Call, June 28, 1990. Copy supplied. (Reprinted in multiple outlets).

Bill Peterson, *Hope Simmers in 'Boiler Room'; Frustration Now Reigns at Hart's Headquarters*, Washington Post, July 4, 1984. Copy supplied. (Reprinted in multiple outlets).

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.

I have not held any judicial offices.

- 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.
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:

I have not held any judicial offices.

- 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.

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.

I have not held public office. I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- 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 participated in a number of fundraising capacities on a volunteer basis. Although I cannot recall every fundraiser that I have sponsored or co-sponsored, they included fundraisers for Maura Healy for Attorney General of Massachusetts (May 29, 2014), John Connolly for Mayor of Boston (October 22, 2013), and Elizabeth Warren for U.S. Senator (March 8, 2012). In 2011, I volunteered as Jon Mitchell's fundraising chair in his successful campaign to become the Mayor of New Bedford, Massachusetts. In that capacity, I communicated with other people raising money for him and hosted fundraisers for him. In 2007, I participated in Senator Evan Bayh's exploratory committee prior to his decision not to run in the 2008 presidential election. I helped organize a fundraiser for him that was eventually cancelled when he decided not to run. I also believe that I may have done phone banking for other candidates in Massachusetts, but I do not recall them except as specified below.

In 1996, I obtained permission from the U.S. Attorney to work as an unpaid volunteer for Massachusetts Attorney General Scott Harshbarger's 1996 gubernatorial campaign through the contested primary, although I did not do any significant work in the general election. I planned and coordinated campaign efforts on primary day, including visibility events, get out the vote activities and candidate appearances. I also did some phone banking for him. I do not believe that I took a formal leave of absence, but instead used accrued leave hours for the time I spent out of the office. During this time in particular, I was careful to scrupulously adhere to all Department of Justice and related rules concerning participation in campaigns.

In 1988, I did some volunteer work for David Landau's congressional campaign in Pennsylvania and in approximately the same time frame did some work for John Zimmerman in a race also in Pennsylvania, although I do not recall the year or the office he was seeking. From approximately late 1985 to 1986, I worked on

U.S. Representative Bob Edgar's U.S. Senate race in Pennsylvania. In each of these campaigns, I helped with voter targeting or field operations, including phone banking, leafleting, and volunteer recruitment

From approximately January to August 1985, I was the Political Director of the Effective Government Committee, a PAC that U.S. Representative Richard Gephardt set up prior to his 1988 presidential run although I did not actually do any work for his 1988 presidential campaign.

Although perhaps not directly responsive, from approximately August 1984 to August 1985, I worked for Voter Contact Services, a company that provided computer-generated voter contact materials, such as street lists. I do not have access to any of the records of my employment, and I am not able to recall any of the individual campaigns with which I had contact during the time.

In early 1984, I was hired as a Regional Field Coordinator for U.S. Senator Gary Hart's 1984 presidential campaign. In that capacity, I was involved in field operations, primarily in California, Kansas, Missouri, and Nebraska. I also was active with delegate operations up to and through the Democratic Convention.

From October 1983 to January 1984, I was the Assistant Press Secretary for the Democratic Congressional Campaign Committee. In that capacity, I reviewed major United States papers and assembled press clippings concerning specific congressional races or political trends and developments relevant to the business of the Democratic Congressional Campaign Committee.

In elementary or middle school, I leafleted for David Mofenson for the Massachusetts House of Representatives, and I believe I did the same for Barney Frank for the Massachusetts House of Representatives.

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;

From 1988 to 1989, I was a clerk for The Honorable Judge Norma L. Shapiro, District Judge for the United States District Court for the Eastern District of Pennsylvania.

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

I have not practiced 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.

1989 – 1995

U.S. Attorney's Office, Eastern District of Pennsylvania  
615 Chestnut Street, Suite 1250  
Philadelphia, Pennsylvania 19106  
Assistant U.S. Attorney  
Organized Crime and Racketeering Strike Force

1995 – 2005

U.S. Attorney's Office, District of Massachusetts  
One Courthouse Way, Suite 9200  
Boston, Massachusetts 02210  
Assistant United States Attorney (1995 – 2005)  
Organized Crime and Drug Enforcement Task Force (1995 – 1997)  
Economic Crimes Unit (1997 – 2005)  
Senior Litigation Counsel, Economic Crimes Unit  
(approximately 2000 – 2003)  
Money Laundering Coordinator, Economic Crimes Unit  
(approximately 1997 – 2005)  
Computer Crime and Telecommunications Coordinator, Economic Crimes  
Unit (approximately 1998 – 2005)  
Supervisor, Computer Hacking and Intellectual Property Section,  
Economic Crimes Unit (approximately 2002 – 2005)

2005 – present

Nutter McClennen & Fish LLP  
155 Seaport Boulevard  
Boston, Massachusetts 02210  
Partner

- 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 in alternative dispute resolution proceedings.

b. Describe:

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

After clerking, I spent approximately 17 years prosecuting criminal cases for the federal government. I began prosecuting organized crime cases in Philadelphia in 1989, focusing on emerging gangs. When I joined the U.S. Attorney's Office for the District of Massachusetts in 1995, I started in the Organized Crime and Drug Enforcement Task Force. After approximately two years, I moved to the Economic Crimes Unit. While there, I prosecuted a wide range of economic crime cases and was also the Money Laundering Coordinator, the Computer Crime and Telecommunications Coordinator and supervised the Computer Crime and Intellectual Property Section. For approximately three years between 2000 and 2003, I also was the Senior Litigation Counsel, which involved facilitating office-wide training for all attorneys and helping with new Assistant United States Attorney orientation and training.

In 2005, I joined Nutter McClennen & Fish, as a member of the firm's Government Investigations and White Collar Defense practice group. My practice at Nutter has consisted largely of representing individuals and corporations in connection with their interactions with the federal, state and local governments, as well as civil litigation in state and federal court. I have particular expertise with the life sciences industry and computer crime and other high technology issues, including the Stored Communications Act.

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

As an Assistant U.S. Attorney, my client was the United States and its agencies. While at Nutter, my clients have included grand jury witnesses, individuals and companies that have been charged with crimes, and individuals and companies who want advice in connection with reporting, recognizing or avoiding the commission of a crime. I also have advised clients on various civil legal issues; handled employment related litigation, contract disputes and contested fee petitions; and represented corporate victims of crime.

- 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 practice has always been almost 100% litigation. While at the U.S. Attorney's Offices for the Eastern District of Pennsylvania and the District of Massachusetts, 100% of my time was spent in federal court, and I appeared in court frequently. At the Nutter firm, my trial work is approximately 60% federal and 40% state and I appear in court regularly.

## i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 80% |
| 2. state courts of record:  | 20% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 0%  |

## 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 more than 20 cases to verdict. At the start of my career, I was second chair in a few cases when I was learning and, later in my career, I was second chair in some cases to help train newer Assistant U.S. Attorneys. For most of my career, I was sole counsel, lead counsel or co-counsel and equal partner. Since being in private practice, I have tried one case with co-counsel.

## i. What percentage of these trials were:

- |              |      |
|--------------|------|
| 1. jury:     | 100% |
| 2. non-jury: | 0%   |

- 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 of the United States.

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:

- the date of representation;
- the name of the court and the name of the judge or judges before whom the case was litigated; and
- the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. U.S. v. Hussein, 01-10423-001-REK (D. Mass.)

This was one of the first cases in the country tried under the Patriot Act. The defendant was charged and convicted of operating an illegal money transmittal business. The essence of the charge was that he had committed a felony by virtue of his failure to register as a money remitter in accordance with state law. He was sentenced to 18 months' incarceration. I handled this case from approximately 2001 to 2002, through investigation and trial, serving as the first chair at trial.

Judge: Judge Robert E. Keeton

Trial Co-Counsel: Joshua Levy  
(former Assistant United States Attorney)  
Ropes & Gray  
Prudential Tower  
800 Boylston Street  
Boston, MA 02199  
(617) 951-7281

Defense Counsel: William J. Cintolo, Esq.  
Cosgrove, Eisenberg & Kiley, P.C.  
One International Place, Suite 1820  
Boston, MA 02110  
(617) 439-7775

2. U.S. v. Castellini, 01-10112-05-JLT (D. Mass.), aff'd, 392 F.3d 35 (1st Cir. 2004)

Defendant Castellini and other members and principals of an organization called Anderson Ark were indicted for their roles in a complex offshore money laundering scheme designed to help participants avoid paying U.S. taxes on funds moved offshore. Mr. Castellini put funds into a trust account and recruited others to do the same. Because Mr. Castellini and others actually maintained control over their trust accounts, the trusts were abusive and designed to launder funds and avoid taxes. This case involved the first instance of search warrants being executed in Costa Rica pursuant to Letters Rogatory. Defendant Gonet pled guilty prior to trial and was sentenced to three years of probation. After a jury trial, Mr. Castellini was convicted of money laundering and money laundering conspiracy. He was sentenced to 21 months' incarceration. Co-defendants Marks and Anderson were ultimately tried in the Eastern District of California and received sentences of incarceration of 81 months and 59 months, respectively. I had co-counsel through indictment of Mr. Castellini and then tried the case by myself. I worked on the case from approximately 2000 to 2004. I won a Director's Award for this prosecution.

Judge: Judge Joseph L. Tauro

Co-Counsel: Alex Whiting  
(former Assistant United States Attorney)  
Harvard Law School  
Griswold 408  
1563 Massachusetts Avenue  
Cambridge, MA 02138  
(617) 495-4622

Defense Counsel  
for Castellini: James C. Rehnquist, Esq.  
Goodwin Procter LLP  
53 State Street  
Boston, MA 02109  
(617) 570-1820

Defense Counsel for  
other non-fugitive  
defendants who  
appeared in  
Massachusetts: Stephen R. Hill, Esq. (representing Gonet)  
(formerly Hill & Associates)  
363 Seventh Avenue  
New York, NY 10001  
Unable to locate phone number

The Honorable Peter B. Krupp, Esq. (representing Marks)  
(formerly Lurie & Krupp)  
Superior Court Administrative Office  
Suffolk County Courthouse, 13th Floor  
Three Pemberton Square  
Boston, MA 02108  
(617) 788-8130

James W. Lawson, Esq. (representing Anderson)  
Prince Lobel Glovsky & Tye LLP  
100 Cambridge Street, Suite 2200  
Boston, MA 02114  
(617) 456-8000

3. U.S. v. Silveira et al., 01-10385-NG, 297 F.Supp.2d 349 (D. Mass. 2003), aff'd, 426 F.3d 514 (1st Cir. 2005)

Defendant Silveira was convicted of making a false statement about his role in large-scale telemarketing fraud, where he and co-defendants ran boiler rooms that



purported to be raising money for charities, but in fact used virtually none of the proceeds for any charitable purpose. After a jury trial, Mr. Silveira was convicted of perjury, but acquitted of the telemarketing fraud. Judge Gertner upheld the perjury conviction, but found that it was out of the heartland of perjury cases because the majority of what Mr. Silveira had told law enforcement agents was true, and further, that a two-level sentencing enhancement for obstruction of justice was warranted because Silveira had repeated the false statement at trial. He was sentenced to 36 months' probation with the first ten months in community confinement and the next four on home confinement with electronic monitoring. One of the co-defendants remained a fugitive and the other, Gail Costello, pled guilty and was sentenced to three years' probation, with the first four months in community confinement and the next four months on home confinement. I worked on this case from approximately 2000 to 2005, when the First Circuit affirmed. I was solely responsible for all aspects of this investigation and prosecution to trial and then tried it with co-counsel.

Judge: Judge Nancy Gertner

Trial Co-Counsel: Paul Levenson  
(former Assistant U.S. Attorney)  
SEC Regional Office  
33 Arch Street  
23rd Floor  
Boston, MA 02110-1424  
(617) 573-89001

Defense Counsel: John LaChance, Esq. (representing Silveira)  
The Law Office of John H. LaChance  
615 Concord Street, Second Floor  
Framingham, MA 01702  
(508) 879-5730

John Andrews (representing Costello)  
Law Office of John Andrews  
Ten Federal Street  
Suite 420  
Salem, MA 01970  
(978) 740-6633

Tracy Miner (representing Campbell)  
Mintz Levin Cohn Ferris Glovsky and Popeo, PC  
One Financial Center  
Boston, MA 02111  
(617) 542-6000

4. U.S. v. Tibbs, 99-10171-NG (D. Mass.)

This was a drug and murder prosecution involving a dangerous defendant who was accused of being an enforcer for a violent crack cocaine trafficking organization that sold crack to Boston area gangs in the mid-1990s. The leaders of the gang cooperated and revealed that Tibbs committed three murders. This trial concerned one of the murders and presented a host of difficult issues because, among other things, most of the main witnesses were gang members. At close of government's case after four weeks of trial, the defendant pled to conspiracy to distribute cocaine base, use of a communication facility to facilitate a drug transaction, and conspiracy to assault with a dangerous weapon. Tibbs was sentenced to 324 months' incarceration. From approximately 1999 to 2001, I helped prepare this case for trial and tried it with co-counsel.

Judge: Judge Nancy Gertner

Co-Counsel: Theodore B. Heinrich  
Assistant United States Attorney  
U.S. Attorney's Office  
One Courthouse Way  
Suite 9200  
Boston, MA 02210  
(617) 748-3245

Defense Counsel: J. W. Carney, Esq.  
The Law Offices of J.W. Carney, Jr. & Associates  
20 Park Plaza, Suite 1405  
Boston, MA 02116  
(617) 933-0350

Honorable Andrew M. D'Angelo  
(formerly Carney & Bassil, P.C.)  
Stoughton District Court  
1288 Central Street  
Stoughton, MA 02072  
(781) 344-2131

5. U.S. v. Sidhom, 98-10289-EFH (D. Mass.); U.S. v. Sidhom, 142 F.Supp.2d 150 (D. Mass. Apr. 26, 2001); U.S. v. Sidhom, 144 F.Supp.2d 41 (D. Mass. June 19, 2001), U.S. v. Sidhom,

This was a money laundering prosecution that followed a successful sting operation. An undercover state trooper told the defendant that he had drug proceeds that he needed to launder. The defendant took the money and accepted a fee for laundering the funds. The defendant was convicted of laundering what he believed to be drug proceeds. He was sentenced to 36 months' incarceration. I

oversaw this case through investigation, indictment and pre-trial and then tried it with co-counsel. From investigation through appeals, I worked on this case from approximately 1997 to 2001.

Judge: Judge Edward F. Harrington

Trial Co-Counsel: Michael Ricciuti  
(former Assistant United States Attorney)  
K&L Gates  
State Street Financial Center  
One Lincoln Street  
Boston, MA 02111  
(617) 951-9094

Defense Counsel: Anthony Cardinale  
Anthony M. Cardinale Law Office  
655 Summer Street, #1  
Boston, MA 02210  
(617) 345-5400

6. U.S. v. Nichols, 97-cr-10338-WGY (D. MA.); 98-cr-00027-DBH (D. ME.)

Defendant Nichols, a Maine state trooper, was convicted of transporting stolen goods in interstate commerce in connection with the theft and subsequent sale of championship baseball rings that belonged to Ted Williams. The Massachusetts defendants were accused of selling the rings after receiving them through Mr. Nichols, with knowledge that the rings had been stolen. Mr. Nichols was convicted of the theft in the United States District Court for Maine and sentenced to six months of home confinement to include gambling counseling. The Massachusetts defendants were acquitted in the United States District Court for Massachusetts. I was responsible for the investigation, pretrial practice and trial of all of the defendants, working on the case from approximately 1997 to 1998. I tried the Massachusetts case myself and was second chaired in Maine by Assistant United States Attorney Joshua Levy.

Judges: Judge William G. Young (D. Mass)  
Judge Brock Hornby (D. Maine)

Trial Co-Counsel: Joshua Levy  
for Maine case (former Assistant United States Attorney)  
Ropes & Gray  
Prudential Tower  
800 Boylston Street  
Boston, MA 02199  
(617) 951-7281

Defense Counsel: Pasquale J. Perrino, Esq. (represented Nichols)  
 Law Office of P.J. Perrino, Jr.  
 128 State Street  
 Augusta, ME 04330  
 (207) 622-1918

Anthony M. Cardinale, Esq. (represented Castinetti)  
 Anthony M. Cardinale Law Office  
 655 Summer Street, #1  
 Boston, MA 02210  
 (617) 345-5400

The Honorable Kenneth J. Fishman (represented Dunn)  
 (formerly Kenneth J. Fishman, Esquire)  
 Massachusetts Superior Court  
 U.S. Post Office & Courthouse, 15th Floor  
 90 Devonshire Street  
 Boston, MA 02109

Leo S. Fama , II (represented Raso)  
 366 Broadway Ave  
 Everett, MA 02149  
 (617) 387-5900

7. U.S. v. Ortiz, 97-10327 (D. Mass.), rev'd, 177 F.3d 108 (1st Cir. 1999)

This was a money laundering prosecution that followed a successful sting operation. The defendant was convicted twice, after two separate trials, of laundering what he believed to be drug proceeds. The case was first tried before Judge Young and then Judge Keeton. After the first conviction, the case was appealed, vacated and remanded based on an interrogation error. On remand, Mr. Ortiz was again convicted. Along with co-counsel, I oversaw the investigation phase. I tried the case myself the first time and then with co-counsel at the second trial. This case was a part of a series of money laundering cases that were all charged by an omnibus complaint in 1997. I worked on the case from approximately 1997 to 2000.

Judges: Judges William Young and Robert Keeton

Co-Counsel: Mark Pearlstein  
 (former Assistant United States Attorney)  
 McDermott Will & Emery  
 28 State Street  
 Boston, MA 02109  
 (617) 535-4425

Michael Ricciuti  
 (former Assistant United States Attorney)  
 K&L Gates  
 State Street Financial Center  
 One Lincoln Street  
 Boston, MA 02111  
 (617) 951-9094

Defense Counsel: Frank Kelleher, Esq.  
 (deceased)  
 (counsel at first trial)

Robert Dimler, Esq.  
 Law Office of Robert Dimler  
 40 Court Street, 3rd Floor  
 Plymouth, MA 02360  
 (508) 747-4348  
 (counsel at second trial)

8. U.S. v. Owens, et al., 95-10397-WGY

U.S. v. Owens, 933 F. Supp. 76 (D. Mass. 1996)

In re U.S., 98 F.3d 1333 (1st Cir. 1996)

U.S. v. Owens, 965 F. Supp. 158 (D. Mass. 1997); aff'd, 167 F.3d 739 (1st Cir. 1999), cert. denied, 28 U.S. 894, 120 S. Ct. 224 (1999)

U.S. v. Owens, 236 F. Supp. 2d 122 (D. Mass. 2002), aff'd in part, rev'd in part and remanded, 483 F.3d 48 (1st Cir. 2007)

U.S. v. Owens, 517 F. Supp. 2d 570 (D. Mass. 2007)

This was a prosecution of a drug trafficking organization, which was involved in large-scale cocaine trafficking and related violence, including murder. Owens, the leader of the organization, was the only charged defendant to go to trial. He was convicted of RICO, conspiracy to murder, murder and interstate travel in aid of racketeering and ultimately sentenced to more than life imprisonment. The conviction was affirmed on direct appeal. Mr. Owens subsequently hired a new defense attorney who challenged the conviction on collateral appeal, essentially alleging ineffective assistance of counsel for his counsel's failure to challenge the judge's decision to close the court room to spectators during the initial phase of jury selection due to space constraints. The First Circuit ruled in favor of Mr. Owens and the case was remanded for resentencing. Mr. Owens died of lung cancer before the resentencing. I handled this case through investigation and trial as either co-counsel or sole counsel, although the office's appellate unit took the lead on the appeals. I worked on this case from approximately 1995 to 2007, although my role in the collateral appeals was limited.

Judge: Judge William G. Young

Co-Counsel: Paul Kelly  
(former Assistant United States Attorney)  
Jackson Lewis  
75 Park Plaza, 4th Floor  
Boston, MA 02116  
(617) 367-0025

Theodore B. Heinrich  
U.S. Attorney's Office  
One Courthouse Way, Suite 9200  
Boston, MA 02110  
(617) 748-3245

Defense Counsel: Miriam Conrad, Esq. (representing Owens for trial and  
direct appeal)  
Federal Defender's Office  
51 Sleeper Street, 5th Floor  
Boston, MA 02210  
(617) 223-8061

Robert L. Sheketoff (representing Owens for trial and  
direct appeal)  
Office of Robert L. Sheketoff  
One McKinley Square  
Boston, MA 02109  
(617) 367-3449

The Honorable Peter B. Krupp, Esq. (representing Owens  
for collateral appeal)  
(formerly Lurie & Krupp)  
Superior Court Administrative Office  
Suffolk County Courthouse, 13th Floor  
Three Pemberton Square  
Boston, MA 02108

9. U.S. v. Jones, et al., 91-570 (E.D. Pa.), aff'd, 1 F.3d 149 (3rd. Cir. 1993)

This case involved the prosecution of the 26 highest ranking members of a violent, large-scale drug trafficking organization known as the Junior Black Mafia. Because of the large number of defendants, the judge severed the case into four groups for trial, with the first group of three defendants comprising the top leaders of the organization. Along with a co-counsel and a third lawyer who helped with motions and other written materials, I tried the case to verdict for three groups of defendants, after which the fourth group pled guilty prior to trial.

The convictions of Mr. Jones, Mr. Fields and Mr. Thornton were affirmed on appeal. I worked on this case from approximately 1990 to 1994. I won a Director's Award for this prosecution.

Judge: Judge Marvin Katz

Co-Counsel: Joel M. Friedman  
(former Assistant U.S. Attorney)  
Pepper Hamilton, LLP  
3000 Two Logan Square, Eighteenth and Arch Streets  
Philadelphia, PA 19103  
(215) 981-4000

Abigail Simkus  
(former Assistant United States Attorney)  
current business contact information unknown

Defense Counsel: Given the large number of defendants and the length of time that has elapsed since these prosecutions, I have included contact information for only the defense counsel that represented the first three defendants to go to trial.

Gerald A. Stein, Esq. (representing Jones)  
1500 Market Square, Suite 2727  
Philadelphia, PA 19102  
(215) 665-1130

Louis T. Savino, Esq. (representing Fields)  
Louis T. Savino & Associates  
1500 John F. Kennedy Boulevard, Suite 1516  
Philadelphia, PA 19102  
(215) 568-1300

Christopher G. Furlong, Esq. (representing Thornton)  
current business contact information unknown

10. U.S. v. Dumas et al., 91-321 (E.D. Pa.)

This case involved a large-scale drug trafficking conspiracy that originated in California. The case began when the police confronted a drug courier who was transporting cocaine from California to Pennsylvania. He then agreed to cooperate. Over time, two other couriers were arrested while transporting cocaine from California to Philadelphia on separate trips and also agreed to cooperate. Eventually, 20 members of the organization were charged. Nine defendants went to trial. One defendant was acquitted and the remaining eight were convicted. To my best recollection, the remaining non-fugitive defendants, including the cooperating witnesses, all pled guilty prior to trial. This case predates Pacer and I

am not able to provide counsel and sentencing information for all defendants. Mr. J. Dumas initially received a sentence of life imprisonment, although I believe it was later reduced following his cooperation in other cases; Mr. Nero was sentenced to 324 months' imprisonment; Mr. Simmons was sentenced to 148 months; and Mr. Arceneaux was sentenced to 151 months. Shumate was originally a fugitive, but was later tried, convicted and sentenced to 188 months' incarceration. I worked on this case from approximately 1991 through 1992. I was responsible for all aspects of this investigation and prosecution, and was first chair at the first trial.

Judge: Judge Jay C. Waldman

Trial Co-Counsel: Ronald Cole  
(former Assistant U.S. Attorney, now retired)  
(current business contact information unknown)

Defense Counsel: Dennis J. Cogan, Esq. (representing D. Dumas)  
Dennis J. Cogan & Associates  
2000 Market Street, Suite 2925  
Philadelphia, PA 19103  
(215) 545-2400

Thomas Colas Carroll, Esq. (representing Coker)  
(deceased)

Marc Neff, Esq. (representing Simmons)  
Law Offices of Mark Neff  
1818 Market Street, 13th Floor  
Philadelphia, PA 19103  
(215) 563-9800

Richard J. Diaz, Esq. (representing J. Dumas)  
Law Offices of Richard J. Diaz  
3127 Ponce De Leon Boulevard  
Coral Gables, FL 33134  
(305) 444-7181

Joshua M. Briskin, Esq. (representing Nero)  
Law Office of Joshua Briskin  
1500 JFK Boulevard, Suite 200  
Philadelphia, PA 19102  
(215) 564-3910

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.)

Given the nature of my employment with both the Nutter firm and the U.S. Attorney's Office, I have represented clients in or run a number of large-scale investigations and prosecutions that resulted in plea agreements or decisions not to go forward with a prosecution. Despite the fact that these matters did not result in a trial, many involved novel legal issues that were litigated or had a significant impact on the law or the client for other reasons. A brief description of three of these matters follows:

U.S. v. Zazulak (03-cr-10307, D. Mass): While I was a prosecutor in the United States Attorney's office for the District of Massachusetts, I oversaw the investigation and prosecution of Mr. Zazulak, who was charged with and convicted of filing false income tax returns. He found a way to exploit a vulnerability in the IRS computer system which allowed him to direct tax payments made on behalf of various corporations to be refunded to fake corporate entities controlled by him. This prosecution was delayed until the IRS could implement a technological fix to preclude others from doing the same once the details of the scheme came to light.

Off-Label Pharma Investigations: While at Nutter, I, both alone and with other attorneys, have represented a large pharmaceutical company and a number of individuals, all in connection with various government investigations focusing on the "off-label promotion" of drugs that have been approved by the FDA for other uses. These cases involve the analysis of complex legal issues as well as an in-depth factual analysis, based on voluminous documents and witness statements. In most instances, witnesses have testified before a grand jury, which has required witness preparations, proffer sessions and negotiations with the respective U.S. Attorney Offices to ensure that the witnesses received adequate legal protection in connection with their testimony.

U.S. v. A Juvenile (98 Cr. 40003-01): In approximately 1998, I prosecuted a juvenile who was charged with and ultimately pled guilty to hacking into the Worcester Airport computer and telephone system and using that access to disable the computer switch that controlled access to police, fire and 911 services to the airport and allowed pilots to activate the runway landing lights when they were landing in the dark. This was one of the first computer hacks with the potential to affect critical infrastructure. The consequences of the juvenile's actions could have been catastrophic, had any of the services been needed during the time they were unavailable. We worked hard to devise an outcome that would adequately punish and deter similar conduct, while also recognizing that the perpetrator was young. He pled guilty to an information, was placed on a probation program designed to direct his considerable intellect towards a more productive use and was then invited to testify before Congress in connection with efforts to protect

the nation's infrastructure. I won a Director's Award for this prosecution and in recognition of the Office's model computer crimes program.

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 a course.

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.

My law firm typically distributes a portion of its current year income to partners on a deferred basis. As a partner in the firm and under the terms of my arrangement with the firm, I am eligible to receive such deferred payments. If I were to leave the firm, I would expect to receive any such payments within 60 days of the close of that fiscal year for the firm, which always ends on September 30. Otherwise, I have no arrangements or expectations concerning future income or compensation from Nutter, McClennen & Fish, LLP. In addition, upon retirement, I will receive benefits from the Federal Employees Retirement System and through the Federal Thrift Savings program.

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.

I currently represent or have represented individuals and companies that have been charged or are under investigation by the U.S. Attorney's Office or have matters pending in federal court. I would recuse myself from any role in those cases or matters should I be appointed. Matters handled by other Nutter attorneys during my tenure would also create a potential conflict. I would follow judicial guidelines with regard to such circumstances, although I would err on the side of caution and recuse myself in instances where there was even a credibly perceived conflict or the appearance of a conflict. I believe that fairness and the perception of fairness are both critically important to the integrity of the judicial process. I also would recuse myself if S.D. Warren Company d/b/a Sappi Fine Paper North America or its parent company, Sappi Limited, were a party because my husband, Michael Leslie, is currently employed by Sappi Fine Paper North America.

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

If there were a realistic potential conflict or the appearance of a conflict, I would recuse myself. In other situations, I would advise the parties of any relevant information, such as a personal or professional relationship with counsel, allow them to be heard on the issue and then make a decision as to recusal. Again, I would follow judicial guidelines and in close cases, I would err on the side of recusal.

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 the time that I was an Assistant United States Attorney, the applicable regulations precluded me from practicing law on behalf of any entity other than the federal government. During that time, in lieu of pro bono legal work, I involved myself in serving the community in other ways. I have always done significant work with inner city and at risk youth and participated in various other programs meant to educate children. For example, I participated in Citizen's School, an after-school enrichment program for inner city children that involved them preparing and trying "criminal" cases before volunteer juries. I was one of a number of people that volunteered to coach and mentor a class of students. I also helped organize and run "Take Your Children to Work"

days. As the Computer Crimes Coordinator, I routinely spoke to various community groups on public safety topics, such as how to keep children safe on the Internet.

For many years, I also have been involved with Agassiz Village and was, until relatively recently, the President of the Board. Agassiz is a non-profit organization whose main function is to own and operate a summer camp in Maine called Agassiz Village, which serves economically disadvantaged and physically challenged children, primarily from urban areas in Massachusetts. The camp and the charity were started in 1935 by my grandfather, Harry E. Burroughs, who came from Russia as a child, supported himself selling newspapers and then started the Burroughs Newsboys Foundation (now operating under the name Agassiz Village) to provide opportunities, including academic scholarships and summer programs, for boys involved with trades such as newsboys. The camp has been co-ed since 1973. After leaving the U.S. Attorney's Office, I also have done legal work on behalf of Agassiz Village.

In 2007, I, along with three others, started a non-profit called Womenade. Womenade originally sponsored quarterly events, each of which raised funds for a featured charity. In approximately 2010, Womenade became a Boston-based women's collective giving circle dedicated to philanthropic efforts that raise awareness and funds for programs that positively impact the lives of women and girls in the Boston area. In 2014 we gave out almost \$75,000 in grants to organizations or programs that empower teenage girls or support disadvantaged adult women by providing education or job training. In addition to being a founding board member and former vice president, I manage Womenade's legal needs. In the four years since becoming a giving circle, Womenade has given out more than \$300,000 in grants to Boston-area non-profits serving teen girls and women.

At Nutter, in addition to these community activities, I also have provided other pro bono services. Pursuant to Nutter's participation in Boston Medical Center's Medical-Legal Partnership for Children, I represented a woman in a landlord-tenant dispute that involved her trying to get back a deposit from an apartment she had left because of her son's health issues. I also represented a non-profit organization in connection with a tax lien as a result of a referral from the Boston Bar Association.

**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 December 20, 2013, Senators Warren and Markey announced that they were re-convening the Advisory Committee on Massachusetts Judicial Nominations to consider applications for federal judicial vacancies in Boston, Massachusetts. On January 31, 2014, I submitted an application to the Committee. On February 27, 2014, I interviewed with the Committee in Boston, Massachusetts. On March 24, 2014, I met with Senators Warren and Markey and their staffers in Boston, Massachusetts. On April 28, 2014, Senator Warren informed me that my name was being sent to the White House. Since May 28, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 18, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On July 31, 2014, 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.

AO 10\*  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Burroughs, Allison D.	2. Court or Organization U.S. District Court, Massachusetts	3. Date of Report 07/31/2014
4. Title (Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination      Date 07/31/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/01/2013 to 07/31/2014
7. Chambers or Office Address Nutter, McClennen & Fish LLP 155 Seaport Boulevard Boston, Massachusetts 02210		
<b>IMPORTANT NOTES:</b> The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.		

**I. POSITIONS.** (Reporting individual only; see pp. 9-13 of filing instructions.)

NONE (No reportable positions.)

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Partner	Nutter, McClennen & Fish LLP
2.	Trustee, President	Agassiz Village
3.	Member of Governance Committee, member of Development/Events Committee	Agassiz Village
4.	Director, Vice President, member of Education Committee	Womenade Boston
5.	Trustee	Trust #1

**II. AGREEMENTS.** (Reporting individual only; see pp. 14-16 of filing instructions.)

NONE (No reportable agreements.)

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

**FINANCIAL DISCLOSURE REPORT**  
Page 2 of 9

<b>Name of Person Reporting</b> Burroughs, Allison D.	<b>Date of Report</b> 07/31/2014
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**III. NON-INVESTMENT INCOME.** *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

**A. Filer's Non-Investment Income**

NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> <small>(yours, not spouse's)</small>
1. 2012	Nutter, McClennen & Fish LLP, partner distribution	\$359,396.00
2. 2013	Nutter, McClennen & Fish LLP, partner distributions	\$307,406.00
3. 2014	Nutter, McClennen & Fish LLP, partner distributions	\$304,701.00
4.		

**B. Spouse's Non-Investment Income** - *If you were married during any portion of the reporting year, complete this section.*

*(Dollar amount not required except for honoraria.)*

NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2013	S.D. Warren Company d/b/a Sappi Fine Paper North America, salary
2. 2014	S.D. Warren Company d/b/a Sappi Fine Paper North America, salary
3.	
4.	

**IV. REIMBURSEMENTS** - *transportation, lodging, food, entertainment.*

*(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*

NONE *(No reportable reimbursements.)*

	<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1.	Exempt				
2.					
3.					
4.					
5.					

**FINANCIAL DISCLOSURE REPORT**  
Page 3 of 9

<b>Name of Person Reporting</b> Barroughs, Allison D.	<b>Date of Report</b> 07/31/2014
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**V. GIFTS.** *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

NONE *(No reportable gifts.)*

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1. Exempt			
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*

NONE *(No reportable liabilities.)*

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.			
2.			
3.			
4.			
5.			



**FINANCIAL DISCLOSURE REPORT**  
Page 4 of 9

<b>Name of Person Reporting</b> Burrighs, Allison D.	<b>Date of Report</b> 07/31/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "X" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
	1. Middlesex Savings Bank, accounts	A	Interest	K	T				
2. Capital One 360, bank accounts	B	Interest	M	T					
3. Hanscom Federal Credit Union, accounts	A	Interest	J	T					
4. Citizens Bank, accounts	A	Interest	K	T					
5. Gold Coins		None	J	T					
6. Hospitality Properties Trust, shares of beneficial interest	A	Dividend	J	T					
7. FWS Baseball VI, LLC, membership interest	C	Distribution	K	U					
8. Longleaf Partners Fund	A	Dividend	K	T					
9. Longleaf Partners International Fund	A	Dividend	K	T					
10. Sappl Limited Incentive Share Options (vested)		None	K	T					
11. SPDR S&P 500 ETF Trust	D	Dividend	M	T					
12. U.S. Savings Bonds, Series HE		None	J	T					
13. Vanguard Emerging Markets Stock Index Fund	A	Dividend	K	T					
14. Vanguard European Stock Index Fund	A	Dividend	K	T					
15. Vanguard GNMA Fund	A	Dividend	K	T					
16. Vanguard Prime Money Market Fund	A	Dividend	K	T					
17. Vanguard Short-Term Investment Grade Fund	A	Dividend	L	T					

1. Income Code: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000  
 (See Columns B1 and D4) F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H=\$1,000,001 - \$5,000,000; I2=More than \$5,000,000  
 2. Value Codes: J=\$15,000 or less; K=\$15,001 - \$50,000; L=\$50,001 - \$100,000; M=\$100,001 - \$250,000  
 (See Columns C1 and D3) N=\$250,001 - \$500,000; O=\$500,001 - \$1,000,000; P1=\$1,000,001 - \$5,000,000; P2=\$5,000,001 - \$25,000,000  
 3. Value Method Codes: Q=Appraisal; R=Cost (Real Estate Only); S=Assessment; T=Cash Market  
 (See Column C2) U=Book Value; V=Other; W=Estimated

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Burroughs, Allison D.	<b>Date of Report</b> 07/31/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

	A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
		(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
		Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
18.	Vanguard Total International Stock Market Index Fund	A	Dividend	J	T					
19.	Vanguard Total Stock Market Index Fund	B	Dividend	L	T					
20.	401K #1	D	Dividend	M	T					
21.	-AllianzGI NFJ Small-Cap Value Fund									
22.	-Fidelity Blue Chip Growth Fund									
23.	-Fidelity Contrafund									
24.	-Fidelity Freedom Fund (Y)									
25.	-Fidelity Intermediate Bond Fund (Y)									
26.	-Fidelity Retirement Money Market Fund									
27.	-Munder Mid-Cap Core Growth Fund									
28.	-PIMCO Total Return Fund									
29.	-Spartan 500 Index Fund									
30.	-Spartan International Index Fund									
31.	H.R.10 (Keogh) #1	D	Dividend	M	T					
32.	-AllianzGI NFJ Small-Cap Value Fund									
33.	-Fidelity Blue Chip Growth Fund									
34.	-Fidelity Contrafund									

1. Income Gain Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000  
 (See Columns B1 and D4)  
 F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H=\$1,000,001 - \$5,000,000; I=\$5,000,001 - \$10,000,000; J=\$10,000,001 - \$50,000,000; K=\$50,000,001 - \$1,000,000,000; L=\$1,000,001 - \$10,000,000; M=\$10,000,001 - \$250,000,000; N=\$250,001 - \$500,000; O=\$500,001 - \$1,000,000; P=\$1,000,001 - \$5,000,000; Q=\$5,000,001 - \$50,000,000; R=Cost (Real Estate Only); S=Assessment; T=Cash Market; U=Book Value; V=Other; W=Estimated

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Burrughs, Allison D.	<b>Date of Report</b> 07/31/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
35. -Fidelity Freedom Fund (Y)									
36. -Fidelity Intermediate Bond Fund (Y)									
37. -Fidelity Low-Priced Stock Fund									
38. -Fidelity Retirement Money Market Fund									
39. -Munder Mid-Cap Core Growth Fund									
40. -PIMCO Total Return Fund									
41. -Spartan 500 Index Fund									
42. -Spartan International Index Fund									
43. 401K #2	E	Dividend	O	T					
44. -American Funds EuroPacific Growth Fund									
45. -Vanguard Retirement Savings Trust II									
46. -Vanguard Total Bond Market Index Fund (Y)									
47. -Vanguard Total Stock Market Index Fund									
48. IRA #1	C	Dividend	L	T					
49. -Vanguard 500 Index Fund (Y)									
50. -Vanguard GNMA Fund									
51. -Vanguard Inflation-Protected Securities Fund (Y)									

1. Income Gain Codes: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000  
 (See Columns B1 and D4) F = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H1 = \$1,000,001 - \$5,000,000; H2 = More than \$5,000,000  
 2. Value Codes: J = \$15,000 or less; K = \$15,001 - \$50,000; L = \$50,001 - \$100,000; M = \$100,001 - \$250,000  
 (See Columns C1 and D3) N = \$250,001 - \$500,000; O = \$500,001 - \$1,000,000; P1 = \$1,000,001 - \$5,000,000; P2 = \$5,000,001 - \$25,000,000  
 3. Value Method Codes: Q = Appraisal; R = Cost (Real Estate Only); S = Assessment; T = Cash Market  
 (See Column C2) U = Book Value; V = Other; W = Estimated



**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
Burroughs, Allison D.	07/31/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

**FINANCIAL DISCLOSURE REPORT**  
Page 9 of 9

Name of Person Reporting	Date of Report
Burroughs, Allison D.	07/31/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/ Allison D. Burroughs*

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

**FINANCIAL STATEMENT**  
**NET WORTH**

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

ASSETS				LIABILITIES			
Cash on hand and in banks		296	221	Notes payable to banks-secured			
U.S. Government securities-Series EE bonds		10	972	Notes payable to banks-unsecured			
Listed securities - see schedule	1	892	965	Notes payable to relatives			
Unlisted securities - see schedule		81	213	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable - personal residence	405	337	
Real estate owned - personal residence		938	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		38	000				
Cash value-life insurance							
Other assets itemize:							
Thrift Savings Plan		593	656				
Gold Coins		6	561				
				Total liabilities	405	337	
				Net Worth	3	452	251
Total Assets	3	857	588	Total liabilities and net worth	3	857	588
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

## FINANCIAL STATEMENT

## NET WORTH SCHEDULES

Listed Securities

AllianzGI NFJ Small-Cap Value Fund	\$ 79,650
American Funds EuroPacific Growth Fund	34,621
Fidelity Blue Chip Growth Fund	26,604
Fidelity Contrafund	78,022
Fidelity Low-Priced Stock Fund	13,183
Fidelity Retirement Money Market Fund	66,900
Hospitality Properties Trust	3,097
Longleaf Partners International Fund	17,783
Longleaf Partners Fund	27,067
Munder Mid-Cap Core Growth Fund	78,518
PIMCO Total Return Fund	6,350
Spartan 500 Index Fund	87,886
Spartan International Index Fund	48,055
SPDR S&P 500 ETF Trust	217,074
Vanguard Emerging Markets Stock Index Fund	24,452
Vanguard European Stock Index Fund	15,386
Vanguard GNMA Fund	70,624
Vanguard Prime Money Market Fund	15,320
Vanguard Retirement Savings Trust II	188,813
Vanguard Short-Term Investment Grade Fund	107,110
Vanguard Total International Stock Index Fund	7,100
Vanguard Total Stock Market Index Fund	679,350
Total Listed Securities	<u>\$ 1,892,965</u>

Unlisted Securities

HWS Baseball VI, LLC	\$ 39,406
Sappi Limited Incentive Share Options (vested)	41,807
Total Unlisted Securities	<u>\$ 81,213</u>



AFFIDAVIT

I, Allison D. Burroughs, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

8/1/14  
(DATE)

Allison D. Burroughs  
(NAME)

Jennifer J. Catarius  
NOTARY



JENNIFER J. CATARIUS  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires September 7, 2018

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Jeanne Evelyn Davidson

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

Judge, United States Court of International Trade

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:** United States Department of Justice  
Civil Division, Commercial Litigation Branch  
Offices of Foreign Litigation and International Judicial Assistance  
Suite 11006  
1100 L Street, NW  
Washington, DC 20530

**Residence:** Bethesda, Maryland

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

1953; Whittier, California

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.

1977 – 1980, New York University School of Law; J.D., 1980

1975 – 1976, University of California at Berkeley; A.B., 1976

Summer 1974, University of California at Santa Cruz; no degree

1971 – 1973, California State University, East Bay (formerly, California State University, Hayward); no degree

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.

1987 – 1992; 1993 – present  
United States Department of Justice  
Civil Division, Commercial Litigation Branch  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
Director, Offices of Foreign Litigation and International Judicial Assistance (2013 – present), and International Trade Field Office (2007 – present)  
Director, National Courts Section (2007 – 2013)  
Deputy Director, National Courts Section (1998 – 2006)  
Assistant Director, National Courts Section (1990 – 1992 and 1993 – 1997)  
Trial Attorney, National Courts Section (1987 – 1989)

1992 – 1993  
Office of the United States Trade Representative  
600 17th Street, NW  
Washington, DC 20506  
Associate General Counsel and Chair of the Section 301 Committee

1980 – 1986  
Steptoe & Johnson  
1330 Connecticut Avenue, NW  
Washington, DC 20036  
Associate

July – August 1979  
Vinson & Elkins  
2200 Pennsylvania Avenue, NW  
Washington, DC 20037  
Summer Associate

June – July 1979  
Winston & Strawn (formerly Cole & Dietz)  
40 Wall Street  
New York, NY 10005  
Summer Associate

Summer 1978  
Vera Institute of Justice  
30 East 39th Street  
New York, NY 10016  
Summer Intern

1976 – 1977

Volunteers in Service to America (VISTA)  
Legal Services of Northern California (formerly Solano County Legal Assistance Agency)  
1810 Capitol Street  
Vallejo, CA 94590  
Paralegal/Outreach Coordinator

Other Affiliations (Uncompensated Unless Otherwise Noted):

2012 – present

Potomac Horse Center  
14211 Quince Orchard Road  
North Potomac, MD 20878  
Equestrian Horse Show Announcer/Registrar (compensated)

2007 – present

Federal Circuit Bar Association  
Charitable and Educational Fund  
1620 I Street, NW  
Washington, DC 20036  
President (2014)  
President Elect (2013)  
Vice President (2012)  
Treasurer (2011)  
Secretary (2010)  
Board of Directors (2007 – 2010)

2009 – 2014

Customs & International Trade Bar Association  
Washington, DC, and New York, NY  
Board of Directors, Member at Large

2005 – 2010

Georgetown University School of Law International Trade Update  
Georgetown University Law Center  
600 New Jersey Avenue, NW  
Washington, DC 20001  
Advisory Board

2004 – 2009

Huntington Terrace Citizens Association  
Bethesda, MD  
Board of Directors

2004 – 2006  
Court of Federal Claims Bar Association  
Washington, DC  
Board of Governors

1981 – 1986  
Portsmouth Condominium Association  
1735 New Hampshire Avenue, NW  
Washington, DC 20036  
Board of Directors

1981 – 1983  
Planned Parenthood of the District of Columbia  
1108 16th Street, NW  
Washington, DC 20036  
Board of Directors/Secretary

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 am not required to register for selective service.

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.

Golden Eagle Award, Presented by Chief Judge Patricia E. Campbell-Smith in recognition of outstanding service, dedication and commitment to the United States Court of Federal Claims, 26th Judicial Conference (2014)

Civil Division, Department of Justice, Superior Achievement and Performance Awards (2006 – 2013; 2000 – 2004; 1994 – 1998; 1988 – 1991)

Michael F. Hertz Memorial Award for Exceptional Professionalism and Outstanding Performance, presented by the Assistant Attorney General for the Civil Division, Department of Justice (2012)

Coin of Excellence, bestowed by the General Services Administration Inspector General for the successful defense and prosecution of civil fraud claims in *Morse Diesel International* (2009)

Special Commendation by the Civil Division, Department of Justice, for representation of the United States in international dispute resolution proceedings before the London Court of International Arbitration concerning the Softwood Lumber Agreement (2008)

Coin of Excellence, bestowed by the Army Corps of Engineers, for the successful prosecution of civil fraud claims in *Daewoo* (2007)

Court of Federal Claims Bar Association Award for Outstanding Contributions and Service as a member of the Board of Governors (2006)

Presidential Rank Award for Meritorious Executive (2005)

Special Commendation by the Civil Division, Department of Justice, for representation of the United States in *Glendale*, the first *Winstar* trial on damages (1998)

Certificate of Appreciation by the United States Trade Representative for Outstanding Contributions to the Negotiation of the North America Free Trade Agreement (1993)

Outstanding Performance Award by the United States Trade Representative (1992)

Special Commendation by the Civil Division, Department of Justice, for representation of the United States in *Daewoo* (1987)

Arthur T. Vanderbilt Award for Outstanding Contributions to New York University School of Law (1980)

Editor in Chief, *Annual Survey of American Law*, New York University (1979 – 1980)

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.

Advisory Council for the Court of Appeals for the Federal Circuit (2007 – present)  
Member (2007 – July 2014)  
Ex-Officio Member (July 2014 – present)

Advisory Council for the Court of Federal Claims (2007 – 2013)

Advisory Committee on Federal Rule of Evidence 502, Court of Federal Claims (2009)

Advisory Committee on Related Cases, Court of Federal Claims (2007 – 2008)

American Bar Association (1983 – 1992)

Court of Federal Claims Bar Association  
Board of Governors (2004 – 2006)

Customs & International Trade Bar Association  
Board of Directors, Member at Large (2009 – June 2014)

District of Columbia Bar Association (1980 – present)  
Nominating Committee for Board of Directors (1999)

Federal Circuit Bar Association  
President (2014)  
President-Elect (2013)  
Vice President (2012)  
Treasurer (2011)  
Secretary (2010)  
Board Member (2007 – 2010)  
Co-Chair, Government Contracts Committee (2005 – 2007)  
Associate Editor, Newsletter (1987 – 1990)

Historical Society for the Court of Appeals for the Federal Circuit (2008 – present)

Judicial Conference Planning Committee for the Court of Federal Claims (2005, 2013)

Judicial Conference Planning Committee for the Court of International Trade (2010)  
Chair

Judicial Conference Steering Committee for the Court of Appeals for the Federal  
Circuit (2012)

Planning Committee for the 25th Anniversary Program for the Court of International  
Trade (2005)

Steering Committee: “When Does Retroactivity Cross The Line? *Winstar*, *Eastern  
Enterprises*, and Beyond,” Court of Federal Claims Conference (1999)

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.

District of Columbia (1980)

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 District of Columbia Circuit (1980)

United States Court of Appeals for the Federal Circuit (1986)

United States Court of Appeals for the Fourth Circuit (1994)

United States Court of Appeals for the Tenth Circuit (approximately 2010)

United States District Court for the District of Columbia (1980)

United States Court of International Trade (1986)

United States Court of Federal Claims (1987)

District of Columbia Superior Court (1980)

To the best of my recollection, my membership in the United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia Circuit, and the United States Court of Appeals for the Fourth Circuit lapsed in the late 1990s after the courts adopted renewal requirements. I was no longer practicing personally before those courts and did not need to be a member to be listed as a government supervisory attorney on briefs.

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.

Civil Division Committee on Alternative Dispute Resolution (1991)  
Commercial Litigation Branch Representative

Department of Justice International Affairs Committee (2013 – present)  
Civil Division Representative

Executive Office Working Group on Unfair Trade Laws (1995)  
Representative of Civil Division, Department of Justice

Georgetown University School of Law International Trade Update (2005 – 2010)  
Advisory Board



Huntington Terrace Citizens Association (2004 – 2009)  
Board of Directors  
Representative, Suburban Hospital Community Relations Board

International Trade Commission Trial Lawyers Association (1983 – 1985)

New York University School of Law Alumni Association (District of Columbia Chapter) (1980 – approximately 1989)

Planned Parenthood of the District of Columbia (1981 – 1986)  
Board of Directors/Secretary (1981 – 1983)

Portsmouth Condominium Association (1981 – 1986)  
Board of Directors (1981 – 1983)

Secretary of State's Advisory Committee on Private International Law  
(2014 – present)  
Representative of Office of Foreign Litigation, Department of Justice

Section 402 Interagency Committee, chaired by the Office of the United States Trade Representative, for Selection of NAFTA Panelists and Extraordinary Challenge Committee Roster (1993 – present)  
Department of Justice Representative

Senior Executive Service Qualifications Review Board (2013 – 2014)

- 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 the best of my knowledge, none of the organizations listed in response to Question 11a 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.

**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.

“Message from the President,” Federal Circuit Bar Association Newsletter, August 2014. Copy supplied.

“Message from the President,” Federal Circuit Bar Association Newsletter, July 2014. Copy supplied.

“CAFC Proposes Use of Hyperlinking in Briefs,” Customs & International Trade Bar Association Newsletter, Vol. 10, Issue 3 (Fall 2012). Copy supplied.

Co-Editor with Bryant Snee, Sean McNamara, and Kirk Manhardt, *Court of Federal Claims Deskbook for Practitioners* (5th ed. 2008). Copy supplied.

Co-Author with Zachary D. Hale, “Developments During 2006 Concerning 28 U.S.C. 1581(i),” 39 *Georgetown Journal of International Law* 127 (2007). Copy supplied.

“Recent Decisions Concerning Buy-National Requirements,” American Bar Association International Trade Committee Newsletter (Winter 1993 – 1994). Copy Supplied.

From 1987 to 1990, I was an Associate Editor of the Federal Circuit Bar Association Newsletter Casenotes. I have been unable to obtain copies of these newsletters.

Author, “Import Relief and Other Trade Law Developments,” American Bar Association International Trade Committee Newsletter (Summer 1988). Copy supplied.

Co-Editor in Chief, with R. Bradley Wilson, *1980 Annual Survey of American Law*, New York University School of Law. I have been unable to obtain a copy.

Author, “Plea Bargaining: Limits on Prosecutorial Discretion,” 1979 *Annual Survey of American Law* 1. Copy supplied.

- 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.

I have served as an officer of the Federal Circuit Bar Association since 2010. During that time period, the association has at times provided comment letters on a variety of issues that have included my name on the letterhead as an officer. As a matter of course, I have always recused myself from the preparation of these

letters whenever they touched on legislative matters, as indicated in the disclaimers in the letters.

- 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.

July 9, 2009: As a member of the Advisory Committee of the Court of Federal Claims, I participated in a group that made recommendations to the Court of Federal Claims Rules Committee regarding the treatment of related cases. I have no notes, transcript, or recording.

- 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.

June 19, 2014: Moderator, "The Federal Circuit Perspective," Federal Circuit Bar Association Bench & Bar Conference, Asheville, NC. Outline supplied.

February 27, 2014: Moderator, "Ask the Judges," Georgetown University School of Law, International Trade Update, Georgetown University Law Center, Washington, DC. Outline supplied.

February 25, 2014: Panelist, "Pretrial Case Management," Court of Federal Claims Judicial Conference, Washington, DC. The panel discussed defective complaints, motions to dismiss, discovery, and settlement. I have no notes, transcript, or recording. The address of the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

January 30, 2014: Speaker, Investiture of the Honorable Todd M. Hughes, Circuit Judge, Court of Appeals for the Federal Circuit, Washington, DC. Transcript supplied.

March 5-8, 2013; and July 10-13, 2012: Faculty, "Foundations in Leadership," National Advocacy Center, Department of Justice, Columbia, SC. Because the materials used at this training are law enforcement sensitive, they are not supplied.

March 1, 2013: Moderator, "Court of International Trade Year in Review,"

Georgetown University School of Law, International Trade Update, Washington, DC. Outline supplied.

November 15, 2012: Panelist, "Recent Developments in Government Contracts," Court of Federal Claims 25th Judicial Conference, Washington, DC. The panel, consisting of private and government attorneys, discussed recent judicial decisions concerning government procurement and contract disputes. I have no notes, transcript, or recording. The address for the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

June 22, 2012: Panelist, "Public Interest and Policy Implications of Settlement," Federal Circuit Bar Association Bench & Bar Conference, San Diego, CA. The panel, composed of attorneys from various fields of law within the Federal Circuit's jurisdiction, discussed factors that may influence the decision to settle, the manner and terms of settlement. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

May 18, 2012: Panelist, "A New Bridge Across the Atlantic: U.S. and German Judicial Systems," Federal Circuit Bar Association, Washington, DC. The panel compared judicial review systems in the United States and Germany, particularly in intellectual property and international trade. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

May 17, 2012: Panelist, "Winstar and Spent Nuclear Fuel Appeals: Lessons Learned," Court of Appeals for the Federal Circuit Judicial Conference, Washington, DC. The panel discussed procedures used in these clusters of large cases against the government and ways similar clusters could be managed in the future. I have no notes, transcript, or recording. The address for the Court of Appeals for the Federal Circuit is 717 Madison Place, NW, Washington, DC 20005.

October 27, 2011: Moderator, "Impact of Financial Crisis Upon Government in Customs and Trade Area," Court of International Trade Judicial Conference, Washington, DC. Outline supplied.

October 19, 2011: Panelist, "Careers in the Law," Court of Federal Claims 24th Judicial Conference, Berkeley Law, Oakland, CA. The panel discussed careers in public service and areas of law within the Court of Federal Claims Jurisdiction. I have no notes, transcript, or recording. The address for Berkeley Law is 215 Boalt Hall, Berkeley, CA 94720.

October 19, 2011: Panelist, "Managing Complex Litigation," Court of Federal Claims 24th Judicial Conference, Oakland, CA. Outline supplied.

November 19, 2010: Moderator, "The Global Community: Globalization and Federal Circuit Subject Matter," Federal Circuit Bar Association, Washington, DC. Outline supplied.

November 5, 2010: Speaker, "Regulatory Takings and Contracts," University of Vermont Law School and Berkeley Law Collaborative on Regulatory Takings, Energy & Resources, Berkeley, CA. I addressed the demarcation between contract and takings claims and ways in which recent decisions had blurred the line. I have no notes, transcript, or recording. The address for the University of Vermont Law School is 164 Chelsea Street, South Royalton, VT 05068.

October 26, 2010: Panelist, "Alternative Dispute Resolution in Government Contract Cases at the Trial and Appellate Levels," Federal Circuit Bar Association, Washington, DC. Outline supplied.

June 24, 2010: Panelist, "The Circuit Jurisprudence – Trade, Government Contract, Intellectual Property," Federal Circuit Bar Association Bench & Bar Conference, Colorado Springs, CO. The panel, composed of attorneys from various fields of law, discussed recent developments in particular sectors of the Federal Circuit's jurisdiction. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

May 20, 2010: Panelist, "Challenges for the Court of International Trade," Court of Appeals for the Federal Circuit Judicial Conference, Washington, DC. The panel discussed recent changes in methodology by the trade agencies. I have no notes, transcript, or recording. The address of the Court of Appeals for the Federal Circuit is 717 Madison Place, NW, Washington, DC 20005.

April 20, 2010: Keynote Speaker, Customs & International Trade Bar Association Annual Meeting, New York, NY. I discussed ways in which judicial review of trade and customs matters could be facilitated and streamlined. I have no notes, transcript, or recording. The Customs & International Trade Bar Association has no physical address.

2010: Speaker, Federal Circuit Mediators Training Seminar, Court of Appeals for the Federal Circuit, Washington, DC. Outline supplied.

February 25, 2010: Panelist, "Bench and Bar Roundtable," Georgetown University School of Law, International Trade Update. The panel, including judges and practitioners, discussed recent developments in Court of International Trade litigation. I have no notes, transcript, or recording. The address of Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, DC 20001.

Fall 2009 and Fall 2004: Faculty, Oral Advocacy Training, Civil Division of the

United States Department of Justice, Washington, DC. Because the materials used at this training are law enforcement sensitive, they are not supplied.

March 6, 2009: Panelist, "Procurement Going Forward: Today's Questions for Tomorrow's Challenges," 15th Annual Federal Procurement Institute, American Bar Association, Section of Public Contract Law, Annapolis, MD. The panel discussed recent court decisions concerning federal procurement. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

January 13, 2009: Moderator, "Winning before Speaking – Excellence in Appellate Advocacy," Federal Circuit Bar Association, Washington, DC. Outline supplied.

November 19, 2008: Panelist, "Cutting Edge Issues in Government Contract Litigation," Court of Federal Claims Judicial Conference, Washington, DC. Outline supplied.

October 21, 2008: Moderator, "When to Appeal – Excellence in Appellate Advocacy," Federal Circuit Bar Association, Washington, DC. Outline supplied.

June 26, 2008: Panelist, "The Supreme Court and the Federal Circuit," Federal Circuit Bar Association Bench & Bar Conference, Monterey, CA. The panel addressed Supreme Court decisions during the past year in appeals from the Federal Circuit. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

May 15, 2008: Panelist, "Litigation Today: The View from the Parties," Court of Appeals for the Federal Circuit Judicial Conference, Washington, DC. The panel discussed recent trends in litigation in tribunals within the Federal Circuit's jurisdiction. I have no notes, transcript, or recording. The address of the Court of Appeals for the Federal Circuit is 717 Madison Place, NW, Washington, DC 20005.

January 30, 2008: Panelist, "Strategic Decision-Making in Trade and Customs Litigation," Georgetown University School of Law, International Trade Update, Washington, DC. The panel discussed litigation strategies in customs and trade litigation and appellate practice. I have no notes, transcript, or recording. The address of Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, DC 20001.

2007: Panelist, "Civility and Professionalism," Federal Circuit Bar Association, Washington, DC. The panel discussed the need for and benefits of civility in litigation. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

November 16, 2007: Co-Moderator, "The New Civilian Board of Contract Appeals," Federal Circuit Bar Association, Government Contract Section, Washington, DC. I co-led a discussion with Administrative Judges and practitioners about the new Civilian Board of Contract Appeals, which combined and replaced several smaller civilian boards. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

June 28, 2007: Panelist, "The Murky Ethics of Mediation Advocacy," Federal Circuit Bar Association Bench & Bar Conference, Cambridge, MD. A copy of my unpublished paper on which my discussion was based is supplied.

February 1, 2007: Moderator, "The Year in Customs and Trade—Key Developments at the CIT/CAFC and Lessons Learned for Practice," Georgetown University School of Law, International Trade Update. I have no notes, transcript, or recording. The address of Georgetown University School of Law is 600 New Jersey Avenue, NW, Washington, DC 20001.

January 26, 2007: Speaker, Retirement Ceremony in Honor of David M. Cohen, Director, Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Avenue, NW, Washington, DC 20530.

November 6, 2006: Panelist, "The Judges Speak to the Bar," Court of International Trade Fourteenth Judicial Conference, New York, NY. Outlined supplied.

February 2, 2006: Moderator, "Court of International Trade Year in Review," Georgetown University School of Law, International Trade Update, Washington, DC. Outline supplied.

2006, 2000, 1993 – 1996, and 1991: Faculty, Alternative Dispute Resolution (ADR) Training, Civil Division of the United States Department of Justice, Washington, DC. Because the materials used at this training are law enforcement sensitive, they are not supplied.

2003 – 2005: Faculty, International Trade Litigation Training, Civil Division of the United States Department of Justice, Washington, DC. Because the materials used at this training are law enforcement sensitive, they are not supplied.

2005, 2004, and 2002: Faculty, Trial Procedure Training, Civil Division of the United States Department of Justice, Washington, DC. Because the materials used at this training are law enforcement sensitive, they are not supplied.

2005: Panelist, "Streamlining International Trade Cases," Federal Circuit Bar Association, Washington, DC. I discussed ways that mass litigation at the Court

of International Trade could be efficiently organized and managed. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

November 4, 2005: Panelist, "Practical Issues in Selecting and Working with Experts," Court of Federal Claims Judicial Conference, National Constitutional Center, Philadelphia, PA. I discussed the appropriate use of experts in litigation, including the different roles of consulting and testifying experts. I have no notes, transcript, or recording. The address for the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

November 3, 2005: Moderator, "Back to the Future: The Trade Court's Next 25 Years," Court of International Trade 25th Anniversary Celebration, New York, NY. Outline supplied.

June 24, 2005: Moderator, "Tips and Traps: A Roundtable Discussion of Litigation Lessons from Recent Tucker Act Cases," Federal Circuit Bar Association Bench and Bar Conference, Kiawah Island, SC. Outline supplied.

March 3, 2005: Panelist, "Bench and Bar Roundtable," Georgetown University School of Law, International Trade Update, Washington, DC 20001. Outline supplied.

November 28, 2004: Panelist, "Latest Developments in Injunctions and Liquidations in Trade Remedy Cases," Court of International Trade Thirteenth Judicial Conference, New York, NY. A copy of my unpublished paper upon which my discussion was based is supplied.

October 11, 2004: Panelist, "The Written Word," Appellate and Trial Advocacy Series, Federal Circuit Bar Association, Washington, DC. Outline supplied.

2004: Moderator, "Alternative Dispute Resolution," Court of Federal Claims Bar Association Conference, Washington, DC. I led a discussion of various forms of alternative dispute resolution and their respective advantages and disadvantages. I have no notes, transcript, or recording. The Court of Federal Claims Bar Association has no physical address.

2003: Panelist, "The People's Court," Court of Federal Claims Judicial Conference, Washington, DC. I discussed the origins and purpose of the Court of Federal Claims. I have no notes, transcript, or recording. The address for the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

2002: Panelist, "New Rules of Procedure," Court of Federal Claims Bar Association Conference, Washington, DC. I discussed recent revisions to the



Federal Rules of Civil Procedure, which were expected to be incorporated into the Court of Federal Claims Rules. I have no notes, transcript, or recording. The Court of Federal Claims Bar Association has no physical address.

October 2002: Panelist, "Trial Preparation and Organization," Court of Federal Claims Judicial Conference, Washington, DC. I discussed critical steps in preparing for trial, including team roles and witness preparation. I have no notes, transcript, or recording. The address for the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

2001, 2000, 1998, 1997, 1996, 1993 and 1992: Guest Lecturer, Course on International Trade Disputes, Georgetown University School of Law, Washington DC. Representative outline supplied.

2001: Panelist, "Remedies for Breach of Contract," Court of Federal Claims Judicial Conference, Washington, DC. I discussed the remedies available, and unavailable, for breach of contract by the government. I have no notes, transcript, or recording. The address for the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

June 13, 2001: Panelist, "Managing Large Cases," Court of Federal Claims Bar Association Conference, Washington, DC. Outline supplied.

2000: Panelist, "Expert Depositions," Court of Federal Claims Bar Association Conference, Washington, DC. I discussed proper preparation for and conduct of expert depositions. I have no notes, transcript, or recording. The Court of Federal Claims Bar Association has no physical address.

June 1999: Panelist, "Alternative Dispute Resolution," American Bar Association, Litigation Section, Washington, DC. I discussed various alternative dispute resolution procedures. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

April 2, 1999: Instructor, "Tenth Intensive Program on Trial Preparation and Advocacy in Federal Procurement – Building a Record/Briefing a Case," American Bar Association, Public Contracts Section, Washington, DC. I discussed proper preparation for and conduct of trials. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

1998: Panelist, "The Court of International Trade's Jurisdictional Mandate," Court of International Trade Judicial Conference, New York, NY. I discussed recent decisions delineating the jurisdiction of the trade court. I have no notes, transcript, or recording. The address of the Court of International Trade is One Federal Plaza, New York, NY 10278.

1998: Speaker, "Supervising Litigation Overseas," Women International Business and Legal Forum, Business Development Associates, Inc. in cooperation with The National Association of Women Lawyers, Washington, DC. I discussed the special requirements and risks in conducting discovery in foreign countries. I have no notes, transcript, or recording. The address of Business Development Associates is 8601 Georgia Avenue, Silver Spring, MD 20910.

June 25, 1997; July 14, 1993: Panelist, "My Brilliant Career: Job Prospects in International Trade," District of Columbia Bar Association, Washington, DC. I spoke to summer associates and summer law interns regarding careers in international trade, particularly in the public sector. I have no notes, transcript, or recording. The address of the District of Columbia Bar Association is 1101 K Street, NW, Washington, DC 20005.

May 23, 1996: Panelist, "The Role of Government Lawyers," Court of Appeals for the Federal Circuit Fourteenth Judicial Conference, Washington, DC. Transcript supplied.

June 16, 1994: Panelist, "The New Federal Rules – What Impact Will They Have on the Court of Federal Claims," Court of Appeals for the Federal Circuit 12th Judicial Conference, Washington, DC. Transcript supplied.

March 23, 1994: Panelist, "Dispute Resolution under NAFTA," World Jurist Association, Washington, DC. I discussed the procedures for dispute resolution under NAFTA. I have no notes, transcript, or recording. The address of the World Jurist Association is 1000 Connecticut Avenue, NW, Washington, DC 20036.

March 25, 1993: Panelist, "Advocacy Before the Office of the United States Trade Representative," American Bar Association, Washington, DC. I discussed the interagency trade policy process and ways in which private sector views can be incorporated. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

June 1992: Speaker, "Dispute Settlement Proposals in NAFTA – Antidumping and Countervailing Duty Law," U.S. Chamber of Commerce, International Division, 1615 H Street, NW, Washington, DC 20062. I discussed the procedures for dispute resolution under NAFTA. I have no notes, transcript, or recording. The address of the U.S. Chamber of Commerce is 1615 H Street, NW, Washington, DC 20062.

December 1991: Judge, Philip C. Jessup International Moot Court Competition, George Washington University School of Law, Washington, DC. I judged semi-finalists in moot court competition. I have no notes, transcript, or recording. The

address of George Washington University School of Law is 2000 H Street, NW, Washington, DC 20052.

December 4, 1990: Speaker, "Enforcement of Laws against Customs Fraud," Customs Lawyers Association, Washington, DC. I discussed actions pursuant to 19 U.S.C. 1592 for penalties for customs fraud. I have no notes, transcript, or recording. The address for the Customs Lawyers Association is P.O. Box 75486, Washington, DC 20013.

January 17, 1990: Panelist, "Litigation Before the Court of International Trade: Practice and Procedure," American Bar Association, Section of International Law and Practice, Washington, DC. I discussed unique aspects of practice in the trade court. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

October 15, 1990: Moderator, "Antidumping/Countervailing Duty Proceedings," Court of International Trade Seventh Judicial Conference, New York, NY. Transcript supplied.

November 18 1988: Panelist, "The Jurisdictional Boundaries of the Court of International Trade: Has the Court Exceeded its Statutory Mandate?," Court of International Trade Fifth Judicial Conference, New York, NY. Transcript and a copy of my unpublished paper upon which my discussion was based are supplied.

October 26, 1987: Speaker, "International Law – Practice in U.S. Government," John Bassett Moore Society of International Law, University of Virginia School of Law, Charlottesville, VA. I spoke to law students about careers in international law, particularly in the public sector. I have no notes, transcript, or recording. The address of the University of Virginia School of Law is 580 Massie Road, Charlottesville, VA 22903.

- 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.

None.

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.

I have not held any judicial office.

- 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.
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:

I have not held any judicial office.

- 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.

**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.

I have held no public offices. I have never been a candidate for elective office or a nominee to any appointed office.

- 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 not held office in or rendered services to any political party or election committee. I have not held a position or played a 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 did not serve as a law clerk to a judge.

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

I have never practiced 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.

1980 – 1986  
Steptoe & Johnson  
1330 Connecticut Avenue, NW  
Washington, DC 20036  
Associate Attorney in International Trade and Litigation Groups

February 1992 – February 1993  
Office of the United States Trade Representative  
600 17th Street, NW  
Washington, DC 20506  
Associate General Counsel and Chair of the Section 301 Committee

1987 – 1992; 1993 – present  
United States Department of Justice  
Civil Division, Commercial Litigation Branch  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
Director of Offices of Foreign Litigation and International Judicial Assistance (2013 – present) and International Trade Field Office (2007 – present)  
Director, National Courts Section (2007 – 2013)  
Deputy Director, National Courts Section (1998 – 2006)  
Assistant Director, National Courts Section (1990 – 1992, 1993 – 1997)  
Trial Attorney, National Courts Section (1987 – 1989)

- 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 never served as a mediator or arbitrator in alternative dispute resolution proceedings.

- b. Describe:

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

While in private practice from 1980 to 1986, I worked primarily on international law, international trade, administrative law, and commercial disputes. In addition to working on large and complex matters, I always handled some pro bono cases myself.

In 1987, I joined the Department of Justice as a Trial Attorney in the International Trade Section. I worked on many matters, including *Daewoo*, the largest customs fraud case ever brought by the United States, resulting in the largest recovery under the civil customs fraud statute. I also handled many large clusters of unfair trade cases at the Court of International Trade, including dozens of cases involving imports of flowers from around the world, and dozens of other cases involving imported tapered roller bearings. I then assumed responsibility for other types of matters, including claims by alleged government informants for monetary rewards and a wide range of commercial disputes. In 1990, I became the Assistant Director with responsibility for not only international trade but also for the National Courts Section. In that capacity, I supervised a wide range of government contract disputes, military and civilian personnel and pay claims, takings and other constitutional claims, as well as international trade.

In 1992, the United States Trade Representative's Office asked me to assume responsibility for trade disputes at the General Agreements on Tariffs and Trade (predecessor to the World Trade Organization) and to serve as Chair of the interagency Section 301 Committee. In those capacities, I chaired public hearings and represented the United States before international tribunals.

In 1993, I returned to the Department of Justice as an Assistant Director in the National Courts Section with responsibility for international trade and other commercial and constitutional litigation. In addition to supervising the work of line attorneys, I personally handled many large and complex cases, including constitutional claims brought by Article III Judges challenging the imposition of Social Security and Medicare taxes, constitutional challenges by exporters to a harbor maintenance fee imposed upon the value of their cargo, and the litigation that followed the savings and loan crisis of the late 1980s.

In 1998, I became a Deputy Director of the National Courts Section, and in 2007, I became the Director. In that capacity, I supervised all significant litigation conducted by the approximately 160 attorneys in the section. I also personally handled several appeals or oral arguments each year in significant cases, including constitutional challenges to the U.S. Tariff Schedules and the Byrd Amendment, constitutional challenges to searches of laptops at airports, and affirmative suits against sureties to

collect millions of dollars owed to the U.S. Treasury in connection with unpaid antidumping duties on Chinese imports. As a result of my expertise, the United States Trade Representative's Office asked me to lead a team of Justice attorneys in a series of cases against the Government of Canada under the Softwood Lumber Agreement in the London Court of International Arbitration.

In 2013, I became the Director of the Office of Foreign Litigation, which is responsible for all litigation by and against the United States in foreign courts, and the Office of International Judicial Assistance, which serves as the Central Authority for the United States under the Hague Conventions on Service and Evidence. I also retained responsibility for international trade litigation, including supervision of the International Trade Field Office in New York City.

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

At Steptoe & Johnson, my clients ranged from multinational corporations to individuals seeking redress for civil rights violations. I specialized in international law, international trade, administrative law, and litigation.

At the United States Trade Representative, my client was the President, as USTR serves as the President's arm for trade negotiations and disputes. On behalf of the President, USTR coordinates positions concerning trade matters within the Executive Branch.

As an attorney for the Department of Justice, my client has been the United States, including all three branches of government and the public. I have developed special expertise in complex litigation, international law and trade, commercial disputes, and constitutional claims.

- 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.

I have been a litigator, or supervisor of litigators, for my entire career. From 1980 to 1986, while in private practice at Steptoe & Johnson, I appeared in court occasionally to argue motions and examine witnesses at trials. As a Trial Attorney and Assistant Director in the Commercial Litigation Branch from 1987 to 1992 and 1993 to 1997, I personally handled thousands of cases and appeared in court frequently to argue motions and participate in trials. For many years, I averaged one appellate argument per month, while also managing a caseload of over 100 active cases. From 1992 to 1993, as an Associate General Counsel at the Office of the United States Trade Representative, I appeared in district court in one case and appeared as the principal representative of the United States



before approximately a dozen international tribunals. From 1998 to 2013, as Deputy Director and Director of the National Courts Section, I primarily supervised litigation, although, I continued to handle several appeals per year, and I appeared in trial courts occasionally at the request of client agencies. Currently, as Director of the Office of Foreign Litigation and the International Trade Field Office, I occasionally present oral arguments in trade cases before the Court of Appeals for the Federal Circuit.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 95% |
| 2. state courts of record:  | 0%  |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 5%  |

ii. Indicate the percentage of your practice in:

- |                          |      |
|--------------------------|------|
| 1. civil proceedings:    | 100% |
| 2. criminal proceedings: | 0%   |

- 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.

The Department of Justice's Case Assignment System lists over 5,000 cases that I have personally handled, and over 7,000 cases that I have supervised, during my tenure. While many cases are dismissed for lack of jurisdiction or failure to state a claim, and many others are settled or resolved by substantive motion, a large number of these cases were tried to a final judgment. Over the course of my career, I have served as lead counsel in approximately a dozen large and complex trials, and have personally participated in or assisted with approximately three dozen other trials that led to judgment. I also have supervised hundreds of trials. In addition to cases resolved by trial, I have personally handled hundreds of cases that were resolved on motion (including numerous cases resolved pursuant to Administrative Procedure Act standards).

i. What percentage of these trials were:

- |              |      |
|--------------|------|
| 1. jury:     | 0%   |
| 2. non-jury: | 100% |

- 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.

While in private practice, I assisted in the preparation of petitions for writs of certiorari and amicus briefs filed at the Supreme Court in the Iranian Claims

litigation. It is unlikely that my name was listed on those briefs, to which many lawyers contributed.

At the Department of Justice, I worked with the Solicitor General's Office to prepare every case in which I was involved as the assigned attorney or reviewer for the Supreme Court. During the seven years that I served as Director of the National Courts Section, my name appeared on every Supreme Court brief involving that section. I personally reviewed virtually all of the drafts provided to and produced by the Office of the Solicitor General in those cases. The Solicitor General's Office invited me to sit at counsel table during the oral argument in *Hatter, et al. v. United States*, 532 U.S. 557 (2001), because of my extensive involvement in the preparation of the case. In addition to *Hatter*, I was personally involved in the Supreme Court briefs in the following cases:

*Ashley Furniture Industries v. United States*, No. 13-1367 (brief in opposition, available at 2014 WL 3492047)

*Aracoma Coal Co. v. United States*, No. 13-941 (brief in opposition, available at 2014 WL 1396760)

*Almond Bros. Lumber Co. v. United States*, No. 13-811 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2013/0responses/2013-0811.resp.pdf>)

*Deckers Outdoor Corp. v. United States*, No. 13-803 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2013/0responses/2013-0803.resp.pdf>)

*Rack Room Shoes v. United States*, Nos. 13-690, 13-822 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2013/0responses/2013-0690.resp.pdf>)

*John R. McCarron v. United States*, No. 13-304 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2013/0responses/2013-0304.resp.pdf>)

*Johnnie H. Beasley v. Eric K. Shinseki*, No. 12-1419 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2013/0responses/2012-1419.resp.pdf>)

*Robert John McCarthy v. International Boundary and Water Commission*, No. 12-1364 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2012/0responses/2012-1364.resp.pdf>)

*Pitts v. Shinseki*, No. 12-1151 (brief in opposition, available at 2013 WL 2251692)

*Robert Donnell Donaldson v. Department of Homeland Security*, No. 12-1044 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2012/0responses/2012-1044.resp.pdf>)

*Beer, et al. v. United States*, No. 12-801 (petition, available at <http://www.justice.gov/osg/briefs/2012/2pet/7pet/2012-0801.pet.aa.pdf>)

*Ruth Hill Frederick v. Eric K. Shinseki*, No. 12-749 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2012/0responses/2012-0749.resp.pdf>)

*Lady Louis Byron v. Eric K. Shinseki*, No. 12-389 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2012/0responses/2012-0389.resp.pdf>)

*Hitachi Home Electronics, Inc. v. United States*, No. 12-148 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2012/0responses/2012-0148.resp.pdf>)

*Alden Leeds, Inc. v. United States*, No. 11-1486 (brief in opposition, available at 2012 WL 5353867)

*CCA Associates v. United States*, No. 11-1352 (brief in opposition, available at 2012 WL 3902580)

*Sioux Honey Ass'n v. United States*, No. 11-1337 (brief in opposition, available at 2012 WL 2645075)

*Constancio Lara v. OPM*, No. 11-915 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0915.resp.pdf>)

*First Annapolis Bancorp, Inc. v. United States*, No. 11-912 (2012) (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0912.resp.pdf>)

*Lionel Guerra v. Eric J. Shinseki*, No. 11-773 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0773.resp.pdf>)

*Keith A. Roberts v. Eric K. Shinseki*, No. 11-603 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0603.resp.pdf>)

*Donald E. Bitzer v. Eric K. Shinseki*, No. 11-437 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0437.resp.pdf>)

*Paul M. Dean v. United States*, No. 11-329 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0329.resp.pdf>)

*Innovair Aviation Ltd. v. United States*, No. 11-122 (brief in opposition, available at 2011 WL 5999522)

*Arctic Slope Native Association v. Kathleen Sebelius*, No. 11-83 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0083.resp.pdf>)

*Kelly S. Jennings v. Social Security Administration*, No. 10-1509 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2010-1509.resp.pdf>)

*United States Steel Co. v. United States*, Nos. 10-1433, 10-1439 (brief in opposition, available at 2011 WL 3664446)

*Larry G. Tyrues v. Eric K. Shinseki*, No. 10-1405 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2010-1405.resp.pdf>)

*Holland, et al. v. United States*, No. 10-1221, 132 S. Ct. 365 (2011) (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2010-1221.resp.pdf>)

*Consolidation Coal Co. v. United States*, No. 10-1020 (brief in opposition, available at 2011 WL 1769335)

*Precision Pine & Timber, Inc. v. United States*, No. 10-341 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2010-0341.resp.pdf>)

*Catherine Roberson v. Eric K. Shinseki*, No. 10-334 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2010-0334.resp.pdf>)

*North Star Alaska Housing Corp. v. United States*, No. 10-122 (brief in opposition, available at 2010 WL 4625006)

*Agredano v. United States*, No. 10-99 (brief in opposition, available at 2010 WL 4959746)

*Metlakatla Indian Community v. Kathleen Sebelius*, No. 09-1466 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2009-1466.resp.pdf>)

*Beer, et al. v. United States*, No. 09-1395 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2009-1395.resp.pdf>)

*Totes-Isotoner v. United States*, No. 09-1360 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2009-1360.resp.pdf>)

*General Dynamics Corp. v. United States*, Nos. 09-1298, 09-1302 (brief in opposition, available at 2010 WL 3300134; response brief, available at 2010 WL 5099376)

*Arctic Slope Native Association v. Kathleen Sebelius*, No. 09-1172 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-1172.resp.pdf>)

*Bank of Guam v. United States*, No. 09-1140 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-1140.resp.html>)

*Connie E. Yant v. United States*, No. 09-1100 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-1100.resp.pdf>)

*Henderson v. Shinseki*, No. 09-1036 (brief for respondent, available at 2010 WL 4312791; brief in opposition, available at 2010 WL 2173778)

*Hardies Fruit & Vegetable Co. South v. United States*, No. 09-840 (brief in opposition, available at 2010 WL 2145273)

*Acceptance Insurance Co. v. United States*, No. 09-771 (brief in opposition, available at 2010 WL 1321422)

*SKF USA Inc. v. US Customs and Border Protection*, No. 09-767 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-0767.resp.html>)

*Palmyra Pacific Seafoods, L.L.C. v. United States*, No. 09-766 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-0766.resp.html>)

*Hudson v. United States*, No. 09-736 (brief in opposition, available at 2010 WL 638465)

*Lisanti v. United States*, No. 09-543 (brief in opposition, available at 2010 WL 342148)

*John v. United States*, Nos. 09-498, 09-499 (brief in opposition, available at 2010 WL 3000894)

*Rose Acre Farms, Inc. v. United States*, No. 09-342 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-0342.resp.pdf>)

*Biltmore Forest Broadcasting FM, Inc. v. United States*, No. 09-88 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-0088.resp.html>)

*Daewoo Engineering & Construction Co. v. United States*, No. 09-3 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-0003.resp.html>)

*Dennis J. Laroche v. Eric K. Shinseki*, No. 08-1413 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2008-1413.resp.pdf>)

*Mullica West, Limited, et al. v. United States*, No. 08-1167 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-1167.resp.html>)

*Delmarva Power & Light Co. v. United States*, No. 08-790 (brief in opposition, available at 2009 WL 759414)

*Jonathan L. Haas v. James B. Peake*, No. 08-525 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0525.resp.html>)

*CCA Associates v. United States*, No. 08-505 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0505.resp.html>)

*AmeriSource Corp. v. United States*, No. 08-497 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0497.resp.pdf>)

*Ross L. Bair, et al. v. United States*, No. 08-242 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0242.resp.html>)

*Huntleigh USA Corp. v. United States*, No. 08-198 (brief in opposition, available at 2008 WL 4757419)

*Mola Development Corp. v. United States*, No. No. 08-138 (brief in opposition, available at 2008 WL 4772106)

*IMS Engineers-Architects, P.C. v. Pete Geren*, No. 08-82 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0082.resp.html>)

*Nufarm America's Inc. v. United States*, No. 08-31 (brief in opposition, available at 2008 WL 4533648)

*Sakar International v. United States*, No. 08-26 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0026.resp.html>)

*United States v. Eurodiff, SA*, Nos. 07-1059, 07-1078 (petition for writ of *certiorari*, available at 2008 WL 437010; reply brief, available at 2008 WL 905193; brief for the United States, available at 2008 WL 2794014; reply brief, available at 2008 WL 4650592)

*United States Steel Corp. et al. v. Canadian Lumber Trade Alliance, et al.*, No. 07-1470 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2007-1470.resp.pdf>)

*Long Island Savings Bank v. United States*, No. 07-1234, 129 S. Ct. 38 (2008) (brief in opposition, available at <http://www.justice.gov/osg/briefs/2007/0responses/2007-1234.resp.html>)

*James P. Peake v. Woodrow F. Sanders*, No. 07-1209 (petitioner's opening brief, available at <http://www.justice.gov/osg/briefs/2007/2pet/7pet/2007-1209.pet.aa.html>)

*Groff v. United States*, No. 07-460 (brief in opposition, available at 2008 WL 65143)

*Hughes v. United States*, No. 07-735 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2007/0responses/2007-0735.resp.html>)

*NTN Corp. v. United States*, No. 07-449 (brief in opposition available at 2007 WL 4613635)

*Brodowy v. United States*, No. 07-393 (brief in opposition, available at 2007 WL 4142599)

*Weeks Marine, Inc. v. Fisherman's Harvest Inc.*, Nos. 07-372, 07-389 (brief in opposition, available at 2007 WL 4287341)

*Amber-Messick v. United States*, No. 07-176 (brief in opposition, available at 207 WL 3085078)

*Stephen S. Adams v. United States*, No. 07-116 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2007/0responses/2007-0116.resp.html>)

*Parkdale Int'l v. United States*, No. 07-65 (brief in opposition, available at 2007 WL 4300855)

*Department of the Army v. John E. Kirkendall*, No. 07-19 (petitioner's opening brief, available at <http://www.justice.gov/osg/briefs/2007/2pet/7pet/2007-0019.pet.aa.html>)

*Barnes v. United States*, No. 06-1466 (brief in opposition, available at 2007 WL 2261599)

*Richlin Security Service Co. v. Michael Chertoff*, No. 06-1717 (response brief, available at <http://www.justice.gov/osg/briefs/2007/3mer/2mer/2006-1717.mer.aa.pdf>; brief in opposition, available at 2007 WL 3000777)

*JTEKT Corp. v. United States*, No. 06-1632 (brief in opposition, available at 2007 WL 2781068)

*Evelyn L. Lewis v. United States*, No. 06-1289 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2006/0responses/2006-1289.resp.html>)

*Night Vision Corp. v. United States*, No. 06-1156 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2006/0responses/2006-1156.resp.pdf>)

*Corus Staal B.V. v. United States*, No. 06-1057 (brief in opposition, available at 2007 WL 1552212)

*Old Stone Corp. v. United States*, No. 06-837 (brief in opposition, available at 2007 WL 545645)

*Applied Cos. v. United States*, No. 06-817 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2006/0responses/2006-0817.resp.html>)

*Citizens Financial Services v. United States*, No. 06-231 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2006/0responses/2006-0231.resp.html>)

*Timken U.S. Corp. v. United States*, No. 06-44 (brief in opposition, available at 2006 WL 2944534)

*Motion Systems Corp. v. George W. Bush*, No. 05-1443 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2006/0responses/2005-1443.resp.html>)

*Preston Martin, et al. v. United States*, No. 05-1221 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2005-1221.resp.html>)

*Southwest Investment Co. v. United States*, No. 05-1087 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2005-1087.resp.pdf>)

*Renasas Technology America Inc. v. United States*, No. 05-986 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2005-0986.resp.html>)



*Hitachi High Technologies America, Inc. v. United States*, No. 05-918 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2005-0918.resp.html>)

*Corus Stahl v. United States*, No. 05-346 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2005-0364.resp.html>)

*United States v. California Federal Bank, FSB*, No. 04-1709 (reply in support of cross-petition, available at <http://www.justice.gov/osg/briefs/2005/2pet/7pet/2004-1709.pet.rep.html>)

*California Federal Bank v. United States*, No. 04-1557 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2004-1557.resp.html>)

*AG Route Seven Partnership v. United States*, No. 04-835 (brief in opposition, available at 2005 WL 438413)

*United States v. Glendale Federal Bank, FSB*, No. 04-786, (conditional petition, available at <http://www.justice.gov/osg/briefs/2004/2pet/7pet/2004-0786.pet.aa.html>; reply brief, available at <http://www.justice.gov/osg/briefs/2004/2pet/7pet/2004-0786.pet.rep.html>)

*Franklin Savings Corp. v. United States*, No. 04-693 (brief in opposition, available at 2005 WL 545645)

*Glendale Federal Bank v. United States*, No. 04-626 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2004/0responses/2004-0626.resp.html>)

*Former Employees of Marathon Ashland Pipeline v. Elaine L. Chao*, No. 04-397 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2004/0responses/2004-0397.resp.html>)

*Koyo Seiko Co. v. United States*, No. 04-87 (brief in opposition, available at 2004 WL 2216343)

*Bank United v. United States*, No. 03-1410 (brief in opposition, available at 2004 WL 1488297)

*George E. Warren Corp. v. United States*, No. 03-1280, 543 U.S. 808 (2004) (brief in opposition, available at 2004 WL 1347281)

*H.C. Bailey, Jr., et al. v. United States*, No. 03-1073 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2003/0responses/2003-1073.resp.html>)

*Defenders of Wildlife v. William T. Hogarth*, No. 03-915 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2003/0responses/2003-0915.resp.html>)

*Thomson Multimedia v. United States*, No. 03-882, 541 U.S. 1040 (2004) (brief in opposition, available at 2004 WL 871294)

*CF Industries Inc. v. United States*, No. 03-867 (brief in opposition, available at 2004 WL 871293)

*American Telephone and Telegraph Co. v. United States*, No. 02-1569 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2003/0responses/2002-1569.resp.pdf>)

*Hohenberg Bros. Co., et al. v. United States*, No. 02-1286 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2002/0responses/2002-1286.resp.html>)

*John K. Castle, et al. v. United States*, No. 02-938 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2002/0responses/2002-0938.resp.html>)

*United States v. California Federal Bank, FSB*, No. 01-698, (conditional cross-petition for writ of *certiorari*, available at 2001 WL 34133914; reply brief for cross-petitioner, available at <http://www.justice.gov/osg/briefs/2001/2pet/7pet/2001-0698.pet.rep.pdf>)

*California Federal Bank v. United States*, No. 01-592 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2001/0responses/2001-0592.resp.html>)

*BMW Manufacturing Corp. v. United States*, No. 01-238 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2002/0responses/2002-1286>)

*Smurfit-Stone Container Corp. v. United States*, No. 00-1131 (brief in opposition, available at 2001 WL 34116162)

*Florida Sugar Marketing and Terminal Ass'n v. United States*, No. 00-660 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2000/0responses/2000-0660.resp.pdf>)

*International Business Machines Corp. v. United States*, No. 00-482 (brief in opposition, available at 2000 WL 34000084)

*Caguas Central Federal Savings Bank, et al. v. United States*, No. 00-448 (brief in opposition, available at

<http://www.justice.gov/osg/briefs/2001/2pet/6invit/2000-0448.resp.pdf>)

*United States v. Swisher International, Inc.*, No. 00-415 (petition for writ of *certiorari*, available at 2000 WL 34000578)

*United States v. Judge Terry J. Hatter, Jr., et al.*, No. 99-1978 (petition for writ of *certiorari*, available at <http://www.justice.gov/osg/briefs/1999/2pet/7pet/99-1978.pet.aa.pdf>); (brief for petitioner, available at 2000 WL 1784977)

*Bestfoods v. United States*, No. 99-1735 (brief in opposition, available at <http://www.justice.gov/osg/briefs/1999/0responses/98-1735.resp.html>)

*Carnival Cruise Lines, Inc. v. United States*, No. 99-1600 (brief in opposition, available at <http://www.justice.gov/osg/briefs/1999/0responses/99-1596.resp.pdf>)

*United States v. United States Shoe Corp.*, No. 97-372 (petition for writ of *certiorari*, available at 1997 WL 33485657; reply brief available at 1997 WL 33485656; brief for petitioner, available at 1997 WL 772730; reply brief, available at 1998 WL 67748)

*Cal-Almond v. United States*, No. 96-11 (brief in opposition, available at 1996 WL 33439328)

*United States v. Hatter*, No. 95-1733 (petition for writ of *certiorari*, available at 1996 WL 33438656)

*Ismael R. Diaz v. Department of the Air Force*, No. 95-1145 (response brief, available at <http://www.justice.gov/osg/briefs/1995/w951145w.txt>)

*Vierrether v. United States*, No. 93-982 (brief in opposition, available at 1994 WL 16100222)

*Dames & Moore v. Regan*, No. 80-2078, 453 U.S. 654 (1981) (motion for leave to file brief *amicus curiae*, available at 1981 WL 390317)

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. The *Winstar* Litigation

In 1996, the Supreme Court upheld the right of thrifts to sue the United States for breach of contract based upon a statutory change to regulatory accounting. *United States v. Winstar Corp.*, 518 U.S. 839 (1996). This decision resulted in over 123 cases filed by more than 400 plaintiffs with damages claims totaling roughly \$50 billion. I was responsible for mobilizing the government's resources, analyzing the claims, identifying appropriate defenses, and preparing for trials and subsequent appeals. I recruited and trained approximately 50 attorneys, formed litigation and appellate teams, retained experts, and worked extensively with the courts and plaintiffs' counsel to develop case management orders to minimize the burden and cost of the litigation. I drafted, reviewed, and edited thousands of briefs, motions, pretrial and post-trial submissions, and appellate briefs, and participated in hundreds of moot courts. I served as counsel of record in the first cases to proceed to trial on damages, including a 14-month trial in *Glendale Federal Bank, FSB v. United States*, 43 Fed. Cl. 390, 400 (1999) (Smith, CJ), *aff'd in part, vacated in part, rev'd in part*, 239 F. 3d 1374 (Fed. Cir. 2001) (Mayer and Linn, JJ, Plager, SJ), *decision on remand*, 54 Fed. Cl. 8 (2002) (Smith, CJ), *aff'd*, 378 F. 3d 1308 (Fed. Cir. 2004) (Mayer and Lourie, JJ, Plager, SJ), *cert. denied*, 544 U.S. 904 (2005). I personally handled approximately a dozen appeals to the Court of Appeals for the Federal Circuit in lead cases to establish benchmarks for settlement and to narrow the issues to be tried in the remaining cases. *E.g.*, *Westfed v. United States*, 407 F.3d at 1368 (Fed. Cir. 2005) (Rader, Gajarsa, Prost, JJ). *Southern California Federal Savings & Loan v. United States*, 422 F.3d 1319 (Fed. Cir. 2005) (Newman, Gajarsa, Mayer, JJ); *Cain and Federal Deposit Ins. Corp. v. United States*, 350 F.3d 1309 (Fed. Cir. 2003) (Friedman, SJ, Newman, Rader, JJ); *California Federal FSB v. United States*, 245 F.3d 1243 (Fed. Cir. 2001) (Mayer, CJ, Plager, SJ, Linn, J); *Glass v. United States*, 258 F.3d 1349 (Fed. Cir. 2001) (Michel, Schall, JJ, Archer, SJ); *Caguas Central Federal Bank v. United States*, 215 F.3d 1304 (Fed. Cir. 2000) (Plager, Rader, JJ, Friedman, SJ). With all but one of the 122 cases resolved, the government has prevailed entirely in approximately 70 percent of the cases and paid seven cents on the dollar of known claims.

At the trial court, then Chief Judge Loren Smith controlled case management and presided over the *Glendale* trial. Virtually every Court of Federal Claims judge presided over one or more damages trials, including Judge Hewitt (*Westfed*), Judge Bruggink (*LaSalle Talman*), Judge Hodges (*California Federal*), Judge Weiss (*Castle*), Judge Margolis (*Glass*), Judge Christine Miller (*Statesman*), Judge Firestone (*Hometown*), and Judge Coster-Williams (*First Annapolis*).

Opposing Counsel: Over 60 law firms were involved in the *Winstar* litigation.

The four members of the Plaintiffs' Coordinating Committee were Jerry Stouck, now with Greenberg Traurig, 2101 L Street, NW, Washington, DC 20037, Tel: 202-331-3100; Melvin C. Garbow, Arnold & Porter, 555 Twelfth Street, NW, Washington, DC 20004, Tel: 202-942-5899; Steven S. Rosenthal, Kaye Scholer, 901 15th Street, NW, Washington, DC 20005, Tel: 202-682-3553; and Charles J. Cooper, Cooper & Kirk, 1523 New Hampshire Avenue, NW, Washington, DC 20036, Tel: 202-220-9660. In *Glendale*, in which I was lead trial counsel, my opposing counsel was Jerry Stouck (listed above). In *California Federal*, my opposing counsel in the appeal were Theodore B. Olson, Theodore J. Boutrous, Jr., Mark A. Perry, David B. Salmons, John C. Millian, and Paul Blankenstein of Gibson, Dunn & Crutcher, LLP, 1050 Connecticut Avenue, NW, Washington, DC 20036, Tel: 202- 822-2082.

Co-Counsel: David M. Cohen, former Director of the National Courts Section, (now retired); Kenneth Dintzer, Acting Deputy Director, Commercial Litigation Branch, Department of Justice, 1100 L Street, NW, Washington, DC 20530, Tel: 202-616-0385; Scott Austin, Assistant Director, Commercial Litigation Branch, Department of Justice, 1100 L Street, NW, Washington, DC 20530, Tel: 202-616-0317; Arlene Groner, Senior Trial Counsel, Commercial Litigation Branch, Department of Justice, 1100 L Street, NW, Washington, DC 20530, Tel: 202-307-0162; Colleen Conry, Ropes & Gray, 700 12th Street, NW, Washington, DC 20005, Tel: 202-508-4834.

## 2. The Harbor Maintenance Fee Litigation

Congress enacted the Harbor Maintenance Fee to fund harbor maintenance and development projects through the imposition of a tax based upon imports, exports, and passengers through U.S. ports. In 1995, exporters began to challenge the tax, asserting that it violated the Export Clause of the Constitution. Eventually, several thousand cases were filed at the Court of International Trade. All of the cases were assigned to Judge Jane Restani, but three Judges (Restani, Musgrave, and DiCarlo) decided the merits. I worked with Judge Restani and a Plaintiffs' Steering Committee to develop test case procedures for resolution of the common issues. I prepared the trial and appellate briefs for the Court of International Trade and the Court of Appeals for the Federal Circuit and participated in the briefs in the Supreme Court. *E.g.*, *United States v. United States Shoe Corp.*, 523 U.S. 360 (1998), *aff'g* 114 F.3d 1564 (Fed. Cir. 1997); *see Thomson Consumer Electronics, Inc. v. United States*, 247 F.3d 1210 (Fed. Cir. 2001); *Stone Container Corp. v. United States*, 229 F.3d 1345 (Fed. Cir. 2000); *Florida Sugar Marketing v. United States*, 220 F.3d 1331 (Fed. Cir. 2000); *Carnival Cruise Lines, Inc. v. United States*, 200 F.3d 1361 (Fed. Cir. 2000); *International Business Machines Corp. v. United States*, 201 F.3d 1367 (Fed. Cir. 2000). Ultimately, the Supreme Court held that the tax was unconstitutional as applied to exports because the tax was imposed on the cargo itself, based upon its value, and was not sufficiently related to harbor maintenance. I subsequently developed and supervised a streamlined refund process that minimized the burdens upon the

litigants and the court. I also participated in numerous related cases, in which the government defeated claims for class-action certification, constitutional claims by importers and passengers, and claims for interest.

Opposing Counsel: The Plaintiffs' Steering Committee was led by Steven H. Becker, now with the Becker Law Firm PLLC, 600 Third Avenue, New York, NY 10016, Tel: 212-499-9098. My opposing counsel in *Thomson* was J. Kevin Horgan of Dekieffer & Horgan, 729 15th Street, NW, Washington, DC 20005, Tel: 202-783-6900.

Co-Counsel: My team included The Honorable Todd M. Hughes, now a Circuit Judge on the Court of Appeals for the Federal Circuit, 717 Madison Place, NW, Washington, DC 20005, Tel: 202-275-8840; and Richard McManus, Federation Quebecoise de Professeures et Professeurs d'Universite (FQPPU), No. 405-4446, Boul Saint Laurent, Montreal, Quebec, Tel: 514-843-5953.

3. *Hatter, et al. v. United States*, 532 U.S. 557 (2001), *aff'g*, 185 F.3d 1356 (Fed. Cir. 1999) (Plager, Rader, JJ, Archer, SJ), *rev'ing*, 38 Fed. Cl. 166 (1997) (Turner, J.), *on remand from* 64 F.3d 647 (Fed. Cir. 1995)

In 1982 and 1983, Congress extended Medicare and Social Security to the federal government, including the judicial branch. Article III judges challenged the imposition of these taxes as unconstitutional diminutions of their salary. I was counsel of record in the trial court and appellate court in defending the legislation. I drafted the briefs and presented the oral arguments at the trial and appellate courts. I also worked closely with the Solicitor General's Office to present the case on appeal to the Supreme Court. After three trial court decisions and three appeals, the Supreme Court held that the imposition of Social Security tax was discriminatory, and therefore unconstitutional, because certain high level officials in the political branches were exempt from that tax. The Court upheld the imposition of Medicare taxes upon judges, however, because they were applied to all citizens. Following the Supreme Court's decision, I developed and supervised an expedited refund process that allowed all eligible Judges to obtain appropriate refunds without the need for litigation between every member of the judiciary and the United States.

Opposing Counsel: Plaintiffs were represented by Steven S. Rosenthal, Kaye Scholer, 901 15th Street, NW, Washington, DC 20005, Tel: 202-682-3553.

Co-Counsel: Assisting me with the later phases of the litigation, including the refund process, was Luke Levasseur, now with Mayer Brown, 1999 K Street, NW, Washington, DC 20006, Tel: 202-263-3469.

#### 4. U.S. Tariff Schedules Litigation

In 2007, importers filed approximately 250 lawsuits in the Court of International

Trade alleging that the United States Tariff Schedules violate the Equal Protection Clause of the Fifth Amendment because they impose different tariff rates upon men's, women's, and children's versions of the same article. I supervised the development of a test case procedure and the merits proceedings before the trial court, and I personally handled the appeals to the Federal Circuit. The trial court initially dismissed the complaints for failure to state a claim because they failed to allege facts sufficient to support a facial discrimination claim. *Totes-Isotoner Corp. v. United States*, 569 F. Supp. 2d 1315 (Ct. Int'l Trade 2008) (Pogue, Barzilay, Restani, JJ). The Federal Circuit affirmed but left open the possibility that another plaintiff could allege an as-applied discrimination claim. *Totes-Isotoner Corp. v. United States*, 594 F.3d 1346 (Fed. Cir. 2010) (Lourie, Dyk, Prost, JJ). A new test case was selected for the as-applied challenge, but the trial court dismissed that case for failure to show any government intention to discriminate. *Rack Room Shoes v. United States*, 821 F.Supp.2d 1341 (Ct. Int'l Trade 2012) (Pogue, CJ). The Federal Circuit affirmed, *Rack Room Shoes v. United States*, 718 F.3d 1370 (Fed. Cir. 2013) (Clevenger, Moore, Reyna, JJ), and the Supreme Court denied *certiorari*.

Opposing Counsel: The lead attorney for most of these cases was Michael T. Cone of FisherBroyles LLP, 470 Atlantic Avenue, Independence Wharf, Boston, MA 02210, Tel: 212-655-5471. John M. Peterson, Russell A. Semmel and Richard F. O'Neill of Neville Peterson LLP, 55 Broadway, New York, NY 10006, Tel: 212-635-2730, represented Totes and Rack Room.

Co-Counsel: The government's team included Reginald Blades, Assistant Director, Commercial Litigation Branch, Department of Justice, 1100 L Street, NW, Washington, DC 20530, Tel: 202-616-8257; and Aimee Lee, Senior Trial Counsel, International Trade Field Office, Civil Division, Department of Justice, 26 Federal Plaza, New York, NY 10278, Tel: 212-264-9253.

5. *PS Chez Sidney, L.L.C. v. United States*, 442 F. Supp. 2d 1329 (Ct. Int'l Tr. 2006), rev'd, 2010 U.S. App. LEXIS 22584, at \*3 (Fed. Cir. Oct. 28, 2010) (Rader, CJ, Newman, Reyna, JJ), and related "Byrd Amendment" cases

In 2000, Congress enacted the Continued Dumping and Subsidy Offset Act (the "Byrd Amendment"), which allowed members of domestic industries to seek distributions of antidumping duties collected from importers. To receive distributions, the statute requires that a domestic producer have been a petitioner in the antidumping investigation or a supporter of the petition. The agencies charged with administering this scheme determined "support" based upon documents filed during investigations. Members of domestic industries who had remained neutral or opposed investigations, and therefore were not eligible for distributions, brought suit, claiming that the support requirement violated the First and Fifth Amendments of the Constitution. I handled the first of these cases to be heard in the Court of International Trade (before Judge Wallach, now a Circuit Judge on the Court of Appeals for the Federal Circuit). I supervised the appeal

from that decision and have supervised various related challenges, all of which ultimately have been resolved favorably for the United States. *E.g.*, *SKF USA, Inc. v. United States*, 451 F. Supp. 2d 1355, 1366 (Ct. Int'l Trade 2006), *rev'd sub nom. SKF USA, Inc. v. U.S. Customs & Border Prot.*, 556 F.3d 1337 (Fed. Cir. 2009 (per curiam)); *Candle Corp. v. United States*, 374 F.3d 1087 (Fed. Cir. 2004) (Michel, CJ, Gajarsa, Dyk, JJ); *Ashley Furniture Industries, Inc. v. United States*, 734 F.3d 1306 (Fed. Cir. 2013) (Prost, Clevenger, Moore, JJ); *Cemex SA v. United States*, 384 F.3d 1314 (Fed. Cir. 2004) (Newman, Rader, JJ, Michel, CJ).

Opposing Counsel in *Chez Sidney* was William E. Brown of Wolff Ardis, P.C., 5810 Shelby Oaks Dr., Memphis, TN 38134, Tel: 901-763-3336.

Counsel for Defendant-Intervenor in *Ashley*, *SKF*, *Cemex*, and other cases: Joseph W. Dorn, King & Spalding, 1700 Pennsylvania Avenue, NW, Washington, D.C. 20006, Tel: 202-626-5445.

Co-Counsel: Frank White, Assistant Director, Commercial Litigation Branch, Department of Justice, 1100 L Street, NW, Washington, DC 20530, Tel: 202-307-6462.

6. *United States v. Great American Insurance Co.*, No. 12-1462 (Fed. Cir. 2013) (Prost, Taranto, JJ, Plager, SJ)

As imports from China have increased over the past decade, it has become increasingly difficult for the United States to collect unpaid duties and antidumping duties on Chinese imports. Although importers are required to post bonds, and in some circumstances cash deposits, these protections are frequently exceeded by the importer's debt, and collection from the importer is often impossible. Several years ago, I organized a team to begin collection actions in the Court of International Trade to require sureties to honor their commitments under the security bonds. In several lead cases, sureties asserted a range of defenses. I presented the oral argument in the first of these cases to reach the Court of Appeals for the Federal Circuit. The appellate court largely ruled in favor of the government, eliminating some of the core defenses of sureties in all of the collection cases. This decision paved the way for settlements in many cases.

Opposing Counsel: Great American Insurance Co. was represented on appeal by Carter G. Phillips of Sidley & Austin, 1501 K Street, NW, Washington, DC 20005, Tel: 202-736-8270.

Co-Counsel: Customs and Border Protection was represented by Chief Counsel Scott Falk, 1025 F Street, NW, Washington, DC 20004, Tel: 202-344-2940.

7. *Kam-Almaz v. United States*, 682 F.3d 1364 (Fed. Cir. 2012) (Lourie, Prost, JJ; Newman, J (dissenting))



Over the past decade, security officials at airports in the United States have had to consistently adapt and respond to new threats to public safety. Electronic equipment carried by travelers poses particularly difficult issues for security. In some cases, laptop computers have been seized and not returned, or returned in damaged condition. Several Fourth and Fifth Amendment challenges have been raised in various courts concerning seized and destroyed laptops. I personally handled one of the first “laptop” cases to be decided on appeal. In *Kam-Almaz v. United States*, an American citizen’s laptop was seized upon his reentry to the United States. He was given a paper stating that the laptop would be returned within 30 days, but it was not returned until ten weeks after the seizure, and then in damaged condition. Mr. Kam-Almaz sued, asserting breach of an implied-in-fact bailment contract and seeking compensation pursuant to the Takings Clause. The Federal Circuit majority held that Mr. Kam-Almaz had failed to allege sufficient facts to support his bailment claim and that the seizure of his laptop was an exercise of police power, an exception to the Fifth Amendment.

Opposing Counsel: Matthew J. Dowd, Wiley Rein LLP, 1776 K Street NW, Washington, DC 20006, Tel: 202-719-7343.

8. *Asociacion Colombiana de Exportadores de Flores (Asocoflores) v. United States*, 903 F. 2d 1555 (Fed. Cir. 1990) (Mayer, Friedman, Baldwin, JJ), and related cases

During the late 1980s, the Department of Commerce issued antidumping duty orders upon imports of flowers from various countries. Many complaints were filed in the Court of International Trade by importers challenging the imposition of antidumping duties and by domestic producers who sought higher duties. I handled all of these cases before the Court of International Trade and the Court of Appeals for the Federal Circuit. In *Asocoflores*, the appellate court held that interested parties to an antidumping investigation could challenge the deposit rates imposed upon imported merchandise, without waiting to challenge the actual assessment of duties, which occurs much later. I also was responsible for a series of other related cases in which courts sustained important methodologies utilized by the trade agencies in determining dumping of perishable products. *E.g.*, *Floral Trade Council of Davis, Cal. v. United States*, 888 F. 2d 1366 (Fed. Cir. 1989); *Floral Trade Council of Davis, Cal. v. United States*, 716 F. Supp. 1580 (Ct. Int’l Trade 1989); *Florex v. United States*, 705 F. Supp. 582 (Ct. Intl. Tr. 1989).

Opposing Counsel: In *Asocoflores*, my opposing counsel were Patrick McCrory (retired) of Arnold & Porter, 555 12th Street, NW, Washington, DC 20004, Tel: 202-942-5000, and Spencer Griffith, now at Akin Gump Strauss Hauer & Feld, 1333 New Hampshire Avenue, NW, Washington, DC 20036, Tel: 202-887-4000.

Intervenors: Intervenors (plaintiffs in other cases) were represented by the Honorable Jimmie Reyna, now a Circuit Judge on the Court of Appeals for the

Federal Circuit, 717 Madison Place, NW, Washington, DC 20005, Tel: 202- 275-8000; James R. Cannon, Jr., now with Cassidy Levy Kent, 2000 Pennsylvania Avenue, NW, Washington, DC 20006, Tel: 202-567-2318; Terrence Stewart of Stewart and Stewart, 2100 M Street, NW, Washington, DC 20037, Tel: 202-785-4185; and Munford Paige Hall of Adduci, Mastriani, and Schaumberg, 1133 Connecticut Avenue, NW, Washington, DC 20036, Tel: 202-467-6300.

9. *U.S. Association of Importers of Textiles and Apparel v. United States*, 413 F.3d 1344 (Fed. Cir. 2005) (Michel, CJ, Mayer, Lourie, JJ)

In 2004, the Court of International Trade (Goldberg, SJ) granted a preliminary injunction barring an inter-agency committee, the Committee for the Implementation of Textile Agreements, from considering petitions for safeguards against increasing textile imports from China. I handled an expedited appeal to the Court of Appeals for the Federal Circuit, which vacated the injunction. The appellate court reversed the trial court, holding that a trial court must decide a pending motion to dismiss for lack of jurisdiction before deciding whether to grant a preliminary injunction. The appellate court also held that mere novelty of a claim is not sufficient to satisfy the likelihood of success requirement for a preliminary injunction. Finally, because the appellate court clarified that it was inappropriate to enjoin the mere commencement of a trade proceeding, the plaintiff voluntarily dismissed the case on remand.

Opposing Counsel: Plaintiffs in this case were represented by Brenda A. Jacobs and Neil R. Ellis, Sidley & Austin, 1501 K Street, NW, Washington, DC 20005, Tel: 202-736-8075.

10. *Corus Staal BV v. Department of Commerce*, 395 F.3d 1343 (Fed. Cir. 2005), *cert. denied*, 126 S. Ct. 1023 (2006)

Since the founding of the GATT after World War II, and continuing with the creation of the WTO in 1994, litigants in domestic courts have attempted to rely upon reports issued by these international trade dispute panels to contest agency decisions under United States law. Court decisions were unclear and inconsistent concerning the relevance of WTO panel reports in domestic litigation. In *Corus Staal*, the Court of Appeals for the Federal Circuit (Mayer, Plager, SJ, Prost, CJ) agreed with the position long advocated by the government that, unless and until a WTO report is adopted by the political branches, it is not part of domestic law and may not be considered by the judicial branch in determining the legality of agency action. I supervised this case and participated in the drafting of briefs and preparation for oral argument.

Opposing counsel: Corus was represented by Richard O. Cunningham and Alice Kippel, Steptoe & Johnson, 1330 Connecticut Avenue, NW, Washington, DC 20036, Tel: 202-429-6434. Counsel for defendant-intervenor-appellee were Ellen J. Schneider, Robert E. Lighthizer, John J. Mangan and Jeffrey D. Gerrish of

Skadden, Arps, Slate, Meagher & Slom LLP, 1440 New York Avenue, NW, Washington, DC 20005, Tel: 202-371-7099.

Co-counsel were Mark Barnett, now Judge, Court of International Trade, One Federal Plaza, New York, NY 10278, Tel: 212-264-1628; and John McLnerney, Chief Counsel for Trade Enforcement and Compliance, Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, Tel: 202-482-1434.

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.)

My most significant legal activities, apart from litigation, include the provision of advice and counsel within the government and professional activities to advance the administration of justice.

Over the course of my career at the Department of Justice, client agencies regularly have sought my advice to reduce litigation risk resulting from their decisions and actions. My guidance also is sought concerning proposed legislation to ensure consistency in U.S. legal positions and reduction of litigation risk exposure. In my current position as Director of the Office of Foreign Litigation, I devote extensive time to coordination within the executive branch of U.S. legal positions in both domestic and foreign courts to ensure accuracy and consistency.

As a member of the statutorily-established Advisory Councils of the Court of Appeals for the Federal Circuit and the Court of Federal Claims, and at the request of the Chief Judges of those Courts, I have recommended improvements in court procedures. For example, I participated in small groups including private and public bar members to formulate recommendations concerning procedures for handling related cases, e-discovery, claw-back orders, and hyperlinking in briefs. While serving as a Board Director of the Court of Federal Claims Bar Association, I recruited contributors, organized, edited, and arranged for publication of the fifth edition of the *Deskbook*, a traditional resource for practitioners in that court. I worked with the Chief Judge and Clerk of the Court of International Trade to improve standard case management procedures and record filing requirements. I supported the Court of Appeals for the Federal Circuit in the establishment of a formal mediation program by participating in annual training programs for mediators. Finally, at the suggestion of the Chief Judge of the Court of Appeals for the Federal Circuit, I organized a four-part series on appellate advocacy, with each of the four panels including a Federal Circuit judge, a private practitioner, and a government appellate attorney. The panels were broadcast as webinars to over two dozen sites throughout the country.

I have not performed any 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.

None.

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.

I have no arrangements for deferred income or future benefits from previous business relationships. When I worked at Steptoe & Johnson, the firm had a 401(k) plan in which I participated. When I left the firm, I rolled over the fund to a new T. Rowe Price account, which I alone own and control.

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.

No.

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.

I am unaware of any individuals, family or otherwise, that are likely to present potential conflicts of interest. As the Director-responsible for international trade litigation involving the United States, I would have a conflict with most cases that are currently pending at the Court of International Trade. If confirmed, I would recuse myself from all cases in which I was either directly or indirectly involved during my tenure at the Department of Justice.

For matters handled by the Department of justice after my departure, I would apply the standards of 28 U.S.C. § 455 and the Code of Conduct for United States Judges, as well as any other pertinent principles of judicial ethics, to determine whether to recuse in other matters.

- 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 would consult rules and decisions that address what constitutes a conflict of interest, including 28 U.S.C. § 455 and the Code of Conduct for United States Judges, and based on that consultation, I would compile a comprehensive list of matters for easy flagging of potential conflicts of interest. In close cases, I would consult other Judges and any persons designated by the court or judicial organizations to provide advice on any questions that may arise.

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.

I am firmly committed to the principle that every attorney should perform public service and pro bono work. During my years in private practice, I almost always had at least one pro bono matter. For example, I assisted in the representation of an African-American family in a civil rights action for damages against members of the Ku Klux Klan who burned a cross on the family's front lawn. I also represented several abandoned children in termination of parental rights cases so that they could be adopted by their foster families. I helped an Eastern European refugee whose property was confiscated first by the Nazis and then by the Russians to petition for relief from the Foreign Claims Settlement Commission.

During my tenure in the Department of Justice, while unable to represent parties in suits against the United States, I have fully supported requests by attorneys under my supervision to participate in other types of pro bono activities. I also appointed a mid-level manager as the pro bono coordinator to ensure that opportunities and policies relating to pro bono work were fully available.

As the new President of the Federal Circuit Bar Association, I have made strengthening the pro bono program for veterans a priority.

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 June 27, 2014, I was contacted by an official from the Office of Legal Policy at the Department of Justice, who asked whether I would be interested in being considered for a vacancy on the Court of International Trade. I later confirmed my interest, and I have since been in contact with officials from the Office of Legal Policy. On August 6, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C.

- 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.

AO 10  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)

1. Person Reporting (last name, first, middle initial) Davidson, Jeanne E.	2. Court or Organization Court of International Trade	3. Date of Report 08/18/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Judge	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination      Date 08/18/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/01/2013 to 08/01/2014
7. Chambers or Office Address 1100 L Street, NW Washington, DC 20530		
<i><b>IMPORTANT NOTES:</b> The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.</i>		

**I. POSITIONS.** (Reporting individual only; see pp. 9-13 of filing instructions.)

NONE (No reportable positions.)

POSITION	NAME OF ORGANIZATION/ENTITY
1. President, President-Elect, Vice-President	Federal Circuit Bar Association
2. Board Director - At Large	Customs & International Trade Bar Association
3. Horse Show Announcer/Registrar	Potomac Horse Center
4.	
5.	

**II. AGREEMENTS.** (Reporting individual only; see pp. 14-16 of filing instructions.)

NONE (No reportable agreements.)

DATE	PARTIES AND TERMS
1.	
2.	
3.	

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting Davidson, Jeanne E.	Date of Report 08/18/2014
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**III. NON-INVESTMENT INCOME.** *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

**A. Filer's Non-Investment Income**

NONE *(No reportable non-investment income.)*

DATE	SOURCE AND TYPE	INCOME <i>(yours, not spouse's)</i>
1.		
2.		
3.		
4.		

**B. Spouse's Non-Investment Income** - *If you were married during any portion of the reporting year, complete this section.*  
*(Dollar amount not required except for honoraria.)*

NONE *(No reportable non-investment income.)*

DATE	SOURCE AND TYPE
1.	
2.	
3.	
4.	

**IV. REIMBURSEMENTS** -- *transportation, lodging, food, entertainment.*  
*(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*

NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. EXEMPT				
2.				
3.				
4.				
5.				



**FINANCIAL DISCLOSURE REPORT**  
Page 3 of 6

<b>Name of Person Reporting</b> Davidson, Jeanne E.	<b>Date of Report</b> 08/18/2014
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**V. GIFTS.** (Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)

NONE (No reportable gifts.)

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1.	EXEMPT		
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** (Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)

NONE (No reportable liabilities.)

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.			
2.			
3.			
4.			
5.			

**FINANCIAL DISCLOSURE REPORT**  
Page 4 of 6

<b>Name of Person Reporting</b> Davidson, Jeanne E.	<b>Date of Report</b> 08/18/2014
--	-------------------------------------

**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

1.	A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period												
		(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)									
		Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)									
	T. Rowe Price - Emerging Markets	A	Dividend	K	T	Exempt													
	T. Rowe Price - Growth & Income	A	Dividend	K	T	Exempt													
	T. Rowe Price - Prime Reserve	A	Dividend	K	T	Exempt													
	T. Rowe Price - Short Term Bond Fund	C	Dividend	M	T	Exempt													
	T. Rowe Price - Global Technology	A	Dividend	K	T	Exempt													
	T. Rowe Price - Retirement 2010	A	Dividend	K	T	Exempt													
	Wells Fargo - Cash/Money Market Accounts	A	Interest	L	T	Exempt													
	Justice Federal Credit Union - Accounts	A	Interest	J	T	Exempt													

1. Income Gains Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000; F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H1=\$1,000,001 - \$5,000,000; H2=More than \$5,000,000; 2. Value Codes: J=\$15,000 or less; K=\$15,001 - \$50,000; L=\$50,001 - \$100,000; M=\$100,001 - \$250,000; N=\$250,001 - \$500,000; O=\$500,001 - \$1,000,000; P1=\$1,000,001 - \$5,000,000; P2=\$5,000,001 - \$25,000,000; P3=\$25,000,001 - \$50,000,000; P4=More than \$50,000,000; 3. Value Method Codes: Q=Appraisal; R=Cost (Real Estate Only); S=Assessment; T=Cash Market; U=Book Value; V=Other; W=Estimated

**FINANCIAL DISCLOSURE REPORT**  
Page 5 of 6

Name of Person Reporting	Date of Report
Davidson, Jeanne E.	08/18/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

**FINANCIAL DISCLOSURE REPORT**  
Page 6 of 6

Name of Person Reporting	Date of Report
Davidson, Jeanne E.	08/18/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/* Jeanne E. Davidson

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

## FINANCIAL STATEMENT

## NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		59	000	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		299	445	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence			
Real estate owned – personal residence		650	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		6	500				
Cash value-life insurance							
Other assets itemize:							
Thrift Savings Plan		913	023				
				Total liabilities			0
				Net Worth	1	927	968
Total Assets	1	927	968	Total liabilities and net worth	1	927	968
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

**FINANCIAL STATEMENT**  
**NET WORTH SCHEDULES**

Listed Securities

T. Rowe Price Emerging Markets Stock Fund	\$ 22,263
T. Rowe Price Global Technology Fund	43,023
T. Rowe Price Growth & Income Fund	33,798
T. Rowe Price Prime Reserve Fund	49,726
T. Rowe Price Retirement 2010 Fund	27,228
T. Rowe Price Short-Term Bond Fund	124,347
Total Listed Securities	<hr/> \$299,445

AFFIDAVIT

I, Jeanne E. Davidson, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

8/14/14  
(DATE)

Jeanne E. Davidson  
(NAME)

Natalie Palmer  
(NOTARY)

NATALIE R. PALMER  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires June 30, 2015

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name:** State full name (include any former names used).  
Haywood Stirling Gilliam, Jr.
2. **Position:** State the position for which you have been nominated.  
United States District Judge for the Northern District of California
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: Covington & Burling LLP  
One Front Street  
San Francisco, CA 94111  
  
Residence: Oakland, California
4. **Birthplace:** State year and place of birth.  
1969; Marlborough, 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.  
1991 – 1994, Stanford Law School; J.D., 1994  
1987 – 1991, Yale University; B.A. (*magna cum laude*), 1991
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.  
2009 – present  
Covington & Burling LLP  
One Front Street



San Francisco, CA 94111  
Partner

2006 – 2009, 1995 – 1998; Summer 1993  
Bingham McCutchen LLP  
(formerly McCutchen, Doyle, Brown & Enersen)  
Three Embarcadero Center  
San Francisco, CA 94111  
Partner (2006 – 2009)  
Associate (1995 – 1998)  
Summer Associate (Summer 1993)

1999 – 2006  
United States Attorney's Office  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102  
Assistant United States Attorney (1999 – 2006)  
Chief, Securities Fraud Section (2005 – 2006)

1994 – 1995  
United States District Court for the Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102  
Law Clerk to the Honorable Thelton E. Henderson

Summer 1992  
Farella, Braun & Martel  
235 Montgomery Street  
San Francisco, CA 94104  
Summer Associate

Summer 1991  
Winthrop, Stimson, Putnam & Roberts  
One Battery Park Plaza  
New York, NY 10004  
Intern

Other affiliations (uncompensated):

2013 – present  
Vincent Academy/Partners in Oakland Education  
1911 Union Street  
Oakland, CA 94607  
Board Member  
Governance Committee Member

2012 – present  
East Bay Community Law Center  
2921 Adeline Street  
Berkeley, CA 94703  
Advisory Board Member

2011 – present  
Plymouth United Church of Christ  
424 Monte Vista Avenue  
Oakland, CA 94610  
Vice-Moderator

1999 – present  
Wiley Manuel Law Foundation  
4107 Sequoyah Road  
Oakland, CA 94605  
Board Member (1999 – present)  
President (2009 – 2012)

2010 – 2012  
Stanford Law School Board of Visitors  
Crown Quadrangle  
559 Nathan Abbott Way  
Stanford, CA 94305  
Member

2009 – 2012  
Bar Association of San Francisco  
301 Battery Street  
San Francisco, CA 94111  
Board Member

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 timely registered for selective service.

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.

*Best Lawyers in America, Criminal Defense: White Collar (2013 – 2014)*

*Benchmark Litigation, Future Star* (2013 – 2014)

*Northern California Super Lawyers* (2008 – 2013)

San Francisco NAACP 1998 Thomas I. Atkins Civil Rights Award (1998)

Article Editor, *Stanford Law Review* (1993 – 1994)

Member, *Stanford Law Review* (1992 – 1994)

United States Law Week award for outstanding service and unfailing commitment to the *Stanford Law Review* (1994)

Hilmer Oehlmann Jr. Prize for outstanding work in first-year Legal Research and Writing, Stanford Law School (1992)

Thatcher Memorial Prize for encouragement of extemporaneous debate among undergraduates, Yale University (1991)

Master's Cup for service to Timothy Dwight College, Yale University (1991)

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.

American Bar Association

Co-Editor, Section of Litigation Minority Trial Lawyer Committee Newsletter (2005 – 2008)

Bar Association of San Francisco

Board Member (2009 – 2012)

Judiciary Committee (2007 – 2009)

Independence of the Judiciary Committee (2009 – present)

Nominating Committee (2010, 2012)

California Minority Counsel Program (2010 – present) (by virtue of Covington's membership)

23rd Annual Business Conference Organizing Committee (2012)

Charles Houston Bar Association

East Bay Community Law Center

Advisory Board Member (2012 – present)

Edward J. McFetridge American Inn of Court

Associate Member (1996 – 1998)

Lawyers' Committee for Civil Rights of the San Francisco Bay Area

Northern District of California Lawyer Representative to the Ninth Circuit Judicial Conference

Lawyer Representative (2006 – 2009)

Lawyer Representative Co-Chair (2008 – 2009)

Northern District of California Magistrate Judge Merit Selection Panel

Chair (2013)

Panel Member (2006)

Stanford Associates (honorary organization recognizing exceptional and sustained volunteer service to Stanford University) (2012 – present)

Stanford Law School Board of Visitors

Member (2010 – 2012)

Stanford Law School San Francisco Alumni Chapter

Co-Chair (2012 – present)

Wiley Manuel Law Foundation

Board Member (1999 – present)

President (2009 – 2012)

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.

California, 1994

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 Ninth Circuit, 1998

United States District Court for the Northern District of California, 1995

United States District Court for Eastern District of California, 2009

United States District Court for Central District of California, 2011

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.

Plymouth United Church of Christ (2011 – present)  
Vice-Moderator (2011 – present)

Sequoyah Country Club (2011 – present)  
Membership Development Committee (2013 – present)

Vincent Academy/Partners in Oakland Education (2013 – present)  
Board Member  
Governance Committee Member

- 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, none of the organizations listed above 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.

With Christopher Miller, *Some Practical Considerations When Concluding an Investigation*, prepared for Practising Law Institute program "Internal Investigations 2014" (June 2014). Copy supplied.

*Knock and Talks: What to Do if the Feds Show Up on Your Doorstep*, Chief Executive.net (January 5, 2014). Copy supplied.

Since joining Covington & Burling, I have been listed on a number of the firm's client advisories as a person to contact if the recipient of the advisory has questions about its content. I have been so listed in my capacity as a partner in the firm's White Collar Defense and Investigations and Global Anti-Corruption practice groups, and the firm's practice is to list a number of senior lawyers in these groups without regard to whether we played any role in drafting the advisory. My involvement in the preparation of these advisories has varied, from actively preparing or editing drafts, to receiving a copy of the finished advisory to circulate to my contacts who may find it of interest. To the best of my recollection after reviewing my records, I was involved in drafting the following client advisories: *The Ralph Lauren Case: Inadequate Rewards for Exemplary Cooperation*, *Final SEC Whistleblower Rules: What Will They Mean in Practice?*, and *Honest Services Fraud*. For the remaining advisories listed below, I was listed as a person to contact based on my membership in the relevant practice group.

Covington & Burling Client Advisory, *Trends and Developments in Anti-Corruption Enforcement 2014* (January 2014). Copy supplied.

Covington & Burling Client Advisory, *Dodd-Frank Anti-Retaliation Provisions: Fifth Circuit Narrows Scope, Rejects SEC and District Court Interpretations* (July 29, 2013). Copy supplied.

Covington & Burling Client Advisory, *The Ralph Lauren Case: Inadequate Rewards for Exemplary Corporate Cooperation* (April 16, 2013). Copy supplied.

Covington & Burling Client Advisory, *Anti-Corruption Year in Review: 2012* (February 2013). Copy supplied.

Covington & Burling Client Advisory, *An Analysis of the FCPA Resource Guide* (November 2012). Copy supplied.

Covington & Burling Client Advisory, *Dodd-Frank Anti-Retaliation Provisions: Three Federal Courts Weigh In* (July 12, 2012). Copy supplied.

Covington & Burling Client Advisory, *Anti-Corruption Mid-Year Review* (July 2012). Copy supplied.

Covington & Burling Client Advisory, *Trends and Developments in Anti-Corruption Enforcement* (February 2012). Copy supplied.

Covington & Burling Client Advisory, *Anti-Corruption Mid-Year Review* (July 2011). Copy supplied.

Covington & Burling Client Advisory, *Final SEC Whistleblower Rules: What Will They Mean in Practice?* (June 2, 2011). Copy supplied.

Covington & Burling Client Advisory, *Honest Services Fraud* (June 2010). Copy supplied.

With Tammy Albarran, Jessica Chan and David Kornblau, *Ralph Lauren: Inadequate Rewards for Exemplary Cooperation*, Law360 (May 1, 2013). Copy supplied.

With Jessica Chan, *The Voluntary Disclosure Dilemma: Does the FCPA Resource Guide Change the Calculus?*, prepared for Practising Law Institute program "Internal Investigations 2013" (April 23, 2013). Copy supplied.

*Be Quick -- But Don't Hurry: Commencing an Internal Investigation in an Era of Aggressive Enforcement*, prepared for Practising Law Institute programs "Internal Investigations 2012: How to Protect Your Clients or Companies in the Global, Post-Dodd-Frank World" (June 2012) and "Internal Investigations 2011: Investigations in the Aftermath of Dodd-Frank" (with Joshua Hurwit) (June 2011). Copies supplied.

*New Safe Harbor for Corporate Transgressions: Revised Sentencing Guidelines Let Companies Mitigate Violations with an Effective Ethics and Compliance Program*, *The Recorder* (January 17, 2011) (The Recorder editor drafted this title, which is not the one I submitted). Copy supplied.

With Kelly Finley, *Strategic Considerations in Cases Involving Joint Criminal Investigations by the Antitrust Division of the U.S. Department of Justice and Other U.S. Law Enforcement Agencies*, Bloomberg Antitrust & Trade Law Report (June 28, 2010). Copy supplied.

In my capacity as co-editor of the ABA Minority Trial Counsel Newsletter, I edited the following articles:

Krystal Bowen, *The Long Arm of the Law: The DOJ's Efforts to Reach Beyond U.S. Borders*, American Bar Association Minority Trial Lawyer Newsletter and Litigation News (October 14, 2008). Copy supplied.

Jerry Gardner and Mary L. Smith, *The Rule of Law for Native Americans: Why Increased Funding for Tribal Justice Systems is Needed*, American Bar Association Minority Trial Lawyer Newsletter (Summer 2008). Copy supplied.

Raymond B. Kim and Caren Drapeau, *Juror Persuasion in a Diverse and Fast-Paced World*, American Bar Association Minority Trial Lawyer Newsletter (Fall 2007). Copy supplied.

Ismail Ramsey, *Giving Back: CJA Panel Service Enriches Communities*, American Bar Association Minority Trial Lawyer Newsletter (Spring/Summer 2007). Copy supplied.

*Overseeing Internal Investigations: Practical Considerations for Board Members*, Corporate Board Member (August 11, 2008). Copy supplied.

With Denver Edwards, Bingham Client Alert, *U.S. v. Stringer: Ninth Circuit Grants Government Wide Latitude in Parallel Proceedings* (April 2008). Copy supplied.

With Joy Sherrod, Bingham Client Alert, *U.S. Department of Justice Revises Corporate Prosecution Policy* (December 2006). Copy supplied.

*U.S. Attorney's Office Has All Brains Intact*, San Francisco Daily Journal (September 26, 2005) (I did not submit the title added by the Daily Journal to my letter to the editor). Copy supplied.

- 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.

In several instances during my service on the Bar Association of San Francisco ("BASF") Board of Directors, BASF staff signed letters regarding various topics. These letters were written on BASF letterhead, which lists all officers, members of the Board of Directors, officers of the Barristers Club and the Executive Director. Although I do not recall being involved in drafting or discussing the following letters, they are publicly available, and I am listed on the letterhead in my capacity as a member of the Board of Directors.

2011 letter (exact date unknown) from Yolanda Jackson, BASF Deputy Executive Director, to Bay Area Minority Law Student Scholarship Applicants, regarding scholarships. Copy supplied.

August 5, 2010, letter from Jayne Salinger, BASF Diversity Pipeline Programs Director, to Patty Sokolecki, Western Messenger, thanking Western Messenger for support of holiday gift drive. Copy supplied.

April 6, 2009, letter from Daisy Hung, BASF Diversity Pipeline Programs



Manager, to undergraduate and law school representatives, regarding scholarships. Copy supplied.

2009 letter (exact date unknown) from Yolanda Jackson, BASF Deputy Executive Director, to Bay Area Minority Law Student Scholarship Applicants, regarding scholarships. Copy supplied.

- 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.

Since July 2013, I have served on the Board of Directors of Vincent Academy/Partners in Oakland Education, a public charter elementary school in Oakland, California. The board's meetings are open to the public, and the minutes of the board's meetings are made publicly available on the Vincent Academy website. Minutes are available at <http://www.vincentacademy.org/governance-2/>.

September 15, 2010, letter to President Barack Obama, signed by me and over 200 other members of the California legal community, regarding the nominations of the Honorable Edward M. Chen and Goodwin Liu for federal judgeships. Copy supplied.

September 8, 2010, letter to Senator Dianne Feinstein, signed by me and 53 other members of the California legal community, regarding the nominations of the Honorable Edward M. Chen and Goodwin Liu for federal judgeships. Copy supplied.

As a member of the Bar Association of San Francisco ("BASF") Independence of the Judiciary Committee since 2009, I helped to prepare the drafts of two letters to the editor that were published under the signature of the BASF President and one other letter (which also included my name on the letterhead in my capacity as a member of the Board of Directors):

February 10, 2010, letter to the editor from Arturo J. Gonzalez, BASF President, regarding the inappropriateness of recusal in the Proposition 8 case, published in the San Francisco Chronicle. Copy supplied.

January 27, 2010, letter from Arturo Gonzalez, BASF President, to the Honorable Harry Reid, supporting confirmation of the Honorable Edward M. Chen. Copy supplied.

April 24, 2009, letter to the editor from Russell S. Roeca, BASF President, regarding the newspaper's cartoon depicting a San Francisco Superior Court Judge, published in The Recorder. Copy supplied.

November 4, 2009, letter to Senators Leahy and Sessions, signed by me and ten other former Northern District of California federal prosecutors, supporting Magistrate Judge Edward M. Chen's confirmation to the United States District Court for the Northern District of California. Copy supplied.

In addition, in several instances during my service on the Bar Association of San Francisco ("BASF") Board of Directors, BASF officers signed letters regarding various topics. These letters were written on BASF letterhead, which lists all officers, members of the Board of Directors, officers of the Barristers Club and the Executive Director. Generally, drafts of such letters were circulated in advance for review and included on the agenda for discussion at Board meetings. Although I do not recall being involved in drafting or discussing the following letters, they are publicly available, and I am listed on the letterhead in my capacity as a member of the Board of Directors.

September 12, 2011, letter from Priya Sanger, BASF President, to the Honorable Tani Cantil-Sakauye, Chief Justice, California Supreme Court, and Members of the California Judicial Council regarding Emergency Court Funding Solution. Copy supplied.

June 27, 2011, letter from Priya Sanger, BASF President, to the Honorable Mike Feuer, Chair, California Assembly Judiciary Committee, regarding Senate Bill 163. Copy supplied.

June 27, 2011, letter from Priya Sanger, BASF President, to the Honorable Edmund G. Brown, Governor of the State of California, regarding court funding issues. Copy supplied.

January 22, 2010, letter from Arturo Gonzalez, BASF President, to Senator Tom Harkin and others regarding appointment of Sharon Browne to Legal Services Corporation Board. Copy supplied.

July 17, 2009, letter from Russell Roeca, BASF President, to the Honorable Jonathan Liebowitz, Chairman, Federal Trade Commission, regarding exemption for Red Flags Rule in Fair and Accurate Credit Transactions Act. Copy supplied.

April 29, 2009, letter from Russell Roeca, BASF President, to the Honorable Leland Yee, California State Senator, regarding support for Senate Bill 399. Copy supplied.

March 19, 2009, letter from Russell Roeca, BASF President, to Holly Fujie, President, State Bar of California, regarding boycott of venue for State Bar annual meetings in 2009 and 2011. Copy supplied.

February 9, 2009, letter from Russell Roeca, BASF President, to Senators

Barbara Boxer and Dianne Feinstein regarding Northern District of California judicial appointments. Copy supplied.

January 29, 2009, letter from Russell Roeca, BASF President, to Holly Fujie, President, State Bar of California, expressing disappointment regarding venue for State Bar annual meeting. 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.

The following list reflects my best effort to identify the speeches and talks that I have delivered. I reviewed my own files as well as publicly-available information in compiling this list. There may, however, be other speeches or talks that I have been unable to locate or do not recall having made.

June 10, 2014: Panelist, *Internal Investigations 2014: Concluding the Investigation*, Practising Law Institute, Chicago, Illinois. Notes and PowerPoint presentation setting out factual hypothetical supplied, and article prepared for event previously supplied in response to Question 12a.

April 30, 2014: Co-Presenter, *Lunch & Learn program: FCPA: Risks of Doing Business Beyond your Borders*, BayBio, South San Francisco, California. PowerPoint supplied.

December 31, 2013: Speaker, Plymouth United Church of Christ Christmas Eve service, Oakland, California. Notes supplied.

November 14, 2013: Co-Presenter, *EU Spotlight: Strategies for Tackling Third Party Risk Across Business Units & Geographies*, NAVEX Global Virtual Conference (Webinar). PowerPoint supplied.

June 11, 2013: Panelist, *Internal Investigations 2013: Concluding the Investigation*, Practising Law Institute, Chicago, Illinois. Notes and PowerPoint presentation setting out factual hypothetical supplied, and article prepared for event previously supplied in response to Question 12a.

February 2013: Speaker, Plymouth United Church of Christ African-American History Month Celebration, Oakland, California. I spoke about my grandfather John Bryant's life. I have no notes, transcript or recording. The address for

Plymouth UCC is 424 Monte Vista Avenue, Oakland, California 94611.

October 24, 2012: I introduced Stanford Law School Dean M. Elizabeth Magill at a law school alumni event in San Francisco, California. My remarks consisted of a brief welcome to the Dean. I have no notes, transcript or recording. The address for the Stanford Law School Office of External Relations is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

October 10, 2012: Panel Moderator, *The Media Loves a Crisis: Will How You React Make it Worse?*, California Minority Counsel Program 23rd Annual Business Conference, San Francisco, California. Notes supplied.

July 10, 2012: Panelist, *The Hiring Partner's Perspective*, San Francisco, California. I was one of a panel of law firm partners who discussed what law firms look for in candidates for summer associate positions with a group of Sponsors for Educational Opportunity interns. I have no notes, transcript or recording. The address for Sponsors for Educational Opportunity is 55 Exchange Place, Suite 601, New York, New York 10005.

June 12, 2012: Panelist, *Internal Investigations 2012: How to Protect Your Clients or Companies in the Global, Post Dodd-Frank World: Commencing the Investigation*, Practising Law Institute, Chicago, Illinois. Notes and PowerPoint presentation setting out factual hypothetical supplied, and article prepared for event previously supplied in response to Question 12a.

March 29, 2012: Mock Trial Participant, *2012 ABA Section of Antitrust Law Spring Meeting*, Washington, D.C. I participated in a mock trial before audience of conference attendees. Notes supplied.

March 22, 2012: Co-Presenter, *Global Corruption Enforcement Heats Up: Actions HR & Legal Professionals Should Take Today*, ELT, Inc. (Webinar). PowerPoint supplied.

January 10, 2012: Panelist, *Investigations in the Whistleblower Age: Strategies and Ethical Pitfalls*, Silicon Valley Innovation & Law Conference (sponsored by Covington & Burling), Palo Alto, California. PowerPoint supplied.

October 5, 2011: Panelist, *Voluntary Disclosure and Cooperation in the Dodd-Frank Whistleblower Age*, Covington & Burling Anticorruption Summit, Washington, D.C. Notes supplied.

July 14, 2011: Co-Presenter, *Global Corruption Enforcement Heats Up: Actions HR & Legal Professionals Should Take Today*, ELT, Inc. (Webinar). PowerPoint supplied.

June 14, 2011: Panelist, *Internal Investigations 2011: Investigations in the Aftermath of Dodd-Frank: Commencing the Investigation*, Practising Law Institute, Chicago, Illinois. Notes and PowerPoint presentation setting out factual hypothetical supplied, and article prepared for event previously supplied in response to Question 12a.

June 6, 2011: Co-Presenter, *The SEC Whistleblower Rules: A New Era in Fraud Investigation*, West LegalEd Center (Webinar). PowerPoint supplied.

January 12, 2011: Panelist, *Ethical Issues in Internal Investigations*, Silicon Valley Innovation & Law Conference (sponsored by Covington & Burling), Palo Alto, California. PowerPoint and notes supplied.

December 9, 2010: Panel Moderator, *In-House Counsel and the Board: Working Together to Identify and Manage the Company's Biggest Risks*, Corporate Board Member and NYSE Euronext General Counsel Forum, New York, New York. Notes supplied.

January 11, 2010: Panelist, *Securities Litigation Roundtable*, California Lawyer magazine, San Francisco, California. Transcript supplied.

December 3, 2009: Panel Moderator, *Ethical Dilemmas for Corporate Counsel -- Privilege and Internal Investigations*, Northwestern Law School 48th Annual Corporate Counsel Institute, San Francisco, California. PowerPoint and notes supplied.

October 24, 2009: I introduced Professor Barbara Babcock at my law school class's 15-Year Reunion Dinner in Palo Alto, California. My remarks consisted of words of appreciation for Professor Babcock, our class's chosen honoree, before her remarks. I have no notes, transcript or recording. The address for the Stanford Law School Office of Alumni Relations is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

July 15, 2009: Co-Presenter, *Fraud Enforcement and Financial Recovery Measures*, American Conference Institute (Webinar). PowerPoints and notes supplied.

June 30, 2009: Panelist, *Internal Investigations 2009: How to Protect Your Clients or Company: Commencing the Investigation*. Practising Law Institute, San Francisco, California. Notes and PowerPoint presentation setting out factual hypothetical supplied, and article prepared for event previously supplied in response to Question 12a.

March 27, 2008: Panelist, *Witness Preparation in the Age of Hyper-Scrutiny*, Minority Corporate Counsel Association Seventh Annual CLE Exposition, Chicago, Illinois. Notes supplied.

August 10, 2007: Panelist, *Annual Review of the Supreme Court's Term, Criminal Cases*, American Bar Association Annual Meeting, San Francisco, California. Notes supplied.

March 2007: Panelist, *Corporate Scandals 2.0: Anticipating the Regulatory Overreaction*, Minority Corporate Counsel Association Sixth Annual CLE Expo, Chicago, Illinois. Annotated PowerPoint used as speaking notes supplied.

November 7, 2006: Panelist, *Stock Options Backdating: What Your Company Should Know*, Cal Law/Association of Corporate Counsel Roundtable, San Francisco, California (rebroadcast on February 9, 2007). Transcript supplied.

November 2006: Along with other Bingham McCutchen partners, I presented as a panelist on the topic *Personal Liability for In-House Counsel* at sessions in San Francisco, Silicon Valley and Los Angeles, California. I do not remember the specific date of each presentation. Notes supplied.

October 2006: Co-Presenter, *Stock Options Backdating: FBI Investigations and White Collar Defense*, The Arthur and Toni Rembe Rock Center for Corporate Governance, Stanford University, Palo Alto, California. The presentation discussed issues in investigating and defending options backdating cases. I have no notes, transcript or recording. The address for the Rock Center is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

March 17, 2006: Panelist, *The Criminalization of Corporate Law*, Berkeley Center for Law, Business and the Economy, Boalt Hall School of Law, Symposium on Post-Enron Corporate Regulation, Berkeley, California. Notes supplied.

June 2005: Co-Presenter, *Legal Issues in Criminal Securities Fraud Cases*, Securities and Exchange Commission Pacific Region Joint Regulatory Conference, Los Angeles, California. The presentation discussed legal issues arising in criminal securities fraud prosecutions for an audience of SEC attorneys and staff. I have no notes, transcript or recording. The address for the SEC's Los Angeles Regional Office is 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036.

May 12, 2001: Presenter, Wiley Manuel Law Foundation Twentieth Annual Scholarship Awards Gala, Oakland, California. I presented awards to the winners of the foundation's high school moot court competition. I have no notes, transcript or recording. The address for the Wiley Manuel Law Foundation is 4107 Sequoyah Road, Oakland, California 94605.

2000s: Presenter, Charles Houston Bar Association Annual Gala, Oakland California. I recall presenting awards to high school moot court competition

winners, but I do not remember the exact year of that presentation. I have no notes, transcript or recording. The address for the Charles Houston Bar Association is PO Box 1474, Oakland, California 94604.

December 1997: Speaker, Castlemont High School, Oakland, California. Another attorney and I spoke with a class of tenth graders about the legal profession and our careers. I have no notes, transcript or recording. The address for Castlemont High School is 8601 MacArthur Boulevard, Oakland, California 94605.

Between 1995 and 1998: I recall speaking early in my career with high school students at Mission High School in San Francisco regarding preparing for college, but do not recall further details. I believe I gave this talk when I was an associate at McCutchen, Doyle, Brown & Enersen. I have no notes, transcript or recording. The address for Mission High School is 3750 18<sup>th</sup> Street, San Francisco, California 94114.

- 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.

*Volunteers Work With Youth Residents of Log Cabin Ranch to "Plant Futures,"* The Bar Association of San Francisco Bulletin, June 26, 2014. Copy supplied.

*Q&A With Covington's Haywood Gilliam,* Law360 White Collar Report, April 2, 2013 (quotation reprinted in multiple outlets). Copy supplied.

*Impact of New SEC Whistleblower Rule: Covington & Burling Lawyers Respond,* Business Wire, May 25, 2011. Copy supplied.

Bar Association of San Francisco Bottom Line Task Force Report, *Proven Formulas for Success: Confronting the Underrepresentation of Partners of Color in Law Firms*, November 2010. My only involvement is that I was one of 85 law firm partners, in-house counsel and managing partners who were interviewed by the Task Force for this report, on background, and on an anonymous basis. Copy supplied.

Jacob Hale Russell, *White Collar Crime*, Stanford Lawyer November 5, 2010. Copy supplied.

Erin Fuchs, *Ex-US Prosecutor Joins Covington White Collar Group*, Law360, May 26, 2009. Copy supplied.

Covington & Burling Press Release, *Former Senior Federal Prosecutor Haywood Gilliam Joins Covington*, May 26, 2009. Copy supplied.

Pamela A. MacLean, *Backdating Probes Lead to Changes*, National Law Journal, June 9, 2008. Copy supplied.

Pamela A. MacLean, *Companies Weigh the Risk of Exposure*, National Law Journal, May 14, 2007. Copy supplied.

Julie Friedman, *Big Paydays for Prosecutors May Have Passed*, National Law Journal, March 2007. Copy supplied.

Edward Iwata, *Justice, SEC Questioned on Pace of Probes*, USA Today, March 9, 2007. Copy supplied.

Edward Iwata, *Lawyer to Pay \$3.1M Over Converse Stock Options*, USA Today, January 10, 2007. Copy supplied.

Jessica Guynn, *Feds Reduce Pressure in White-Collar Probes: Now Companies Will Often be Able to Offer Counsel*, San Francisco Chronicle, December 13, 2006. Copy supplied.

Jessica Guynn, *U.S. Senator Takes on So-Called "Thompson Memo,"* San Francisco Chronicle, December 7, 2006 (quotation reprinted in multiple outlets). Copy supplied.

Zusha Elinson, *Bingham Grabs Backdating Prosecutor*, The Recorder, October 24, 2006. Copy supplied.

William-Arthur Haynes, *U.S. Lawyer Reunites With Bingham Crew*, San Francisco Daily Journal, October 6, 2006. Copy supplied.

Bingham McCutchen Press Release, *Outgoing Northern California Securities Fraud Chief Joins Bingham McCutchen*, October 5, 2006. Copy supplied.

June Bell, *Winning*, National Law Journal, June 5, 2006. Copy supplied.

Classmates Notes, Stanford Lawyer, Fall 2005. Copy supplied.

Bob Egelko, *Reluctant Court Upholds Race Quotas in S.F. Schools*, Contra Costa Times, June 5, 1998 (quotation reprinted in multiple outlets). Copy supplied.

Jennifer Warren, *Judge is No Stranger to Controversy*, Los Angeles Times, December 16, 1996. Copy supplied.

Edward Iwata, *Modern Mentoring*, San Francisco Examiner, June 18, 1995. 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.

I have never held judicial office.

- 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.

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:

I have not been a judge.

- 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.

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.

I have never held any public office. I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- 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 believe that I was listed as a co-sponsor of a fundraiser for California Attorney General Kamala Harris on June 20, 2013, at the Kecker & Van Nest law firm, but I am unable to find a copy of the invitation or any other materials for this event.

In 2012, I endorsed Barbara Parker in her race for Oakland City Attorney, by allowing Ms. Parker to list my name on her website along with a number of other attorneys.

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;

From 1994 to 1995, I served as a law clerk to the Honorable Thelton E. Henderson, then the Chief Judge of the United States District Court for the Northern District of California.

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

I have never 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.

1995 – 1998  
McCutchen, Doyle, Brown & Enersen  
Three Embarcadero Center  
San Francisco, CA 94111  
Associate

1999 – 2006  
United States Attorney's Office  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102  
Assistant United States Attorney (1999 – 2006)  
Chief, Securities Fraud Section (2005 – 2006)

2006 – 2009  
Bingham McCutchen LLP  
Three Embarcadero Center  
San Francisco, CA 94111  
Partner

2009 – present  
Covington & Burling LLP  
One Front Street  
San Francisco, CA 94111  
Partner

- 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 in alternative dispute resolution proceedings.

b. Describe:

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

From 1995 to 1998, I was an associate at McCutchen, Doyle, Brown & Enersen in San Francisco. My practice focused on civil litigation in securities, telecommunications, antitrust, construction and breach of contract matters.

From 1999 to 2006, I served as an Assistant United States Attorney for the Northern District of California. During that time, I investigated and prosecuted cases involving a range of federal offenses, including securities fraud, mail and wire fraud, bank fraud, insurance fraud, narcotics trafficking, firearms offenses, violent crimes and immigration crimes. From 2005 to 2006, I served as Chief of the Securities Fraud Section. In that role, I supervised a team of attorneys dedicated to prosecuting securities and corporate fraud matters. During my time in the Office, I also was the Corporate Fraud Coordinator for two years, served as one of the Professional Responsibility Officers for two years, and served as a member of the Department of Justice's nationwide Securities and Commodities Fraud Working Group.

From 2006 to 2009 as a partner at Bingham McCutchen LLP, I counseled clients in criminal and regulatory enforcement matters and internal investigations, including securities, antitrust, healthcare, anti-corruption, export controls, trade secret, environmental and other white collar matters, as well as in complex commercial cases. Since May 2009, I have engaged in a similar practice at Covington & Burling in San Francisco as the Vice-Chair of the firm's White Collar Defense and Investigations practice group.

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

As an associate at McCutchen Doyle from 1995 to 1998, I represented corporate clients in various industries, including a professional sports league, a telecommunications company, a real estate company and a manufacturer of medical equipment. During this period, I handled general commercial litigation. During my time at the U.S. Attorney's Office between 1999 and 2006, I represented the United States in criminal proceedings. Since returning to private practice in 2006, I have represented organizational and individual clients in internal and government investigations in a number of industry sectors, including pharmaceuticals, financial services, transportation and logistics, memory chip manufacturing, real estate and mining. My organizational clients have included corporations of various sizes, a collegiate athletics organization, a state agency, and small closely-held partnerships. My individual clients have included executives and employees of corporations of varying sizes, as well as small business owners and employees.

- 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.

As an associate at McCutchen, Doyle, Brown & Enersen from 1995 to 1998, I appeared in court infrequently. During this period, 100% of my practice was in litigation.

As an Assistant United States Attorney (AUSA) for the Northern District of California from 1999 to 2006, I appeared in federal district and magistrate courts frequently and argued several appeals before the Ninth Circuit in criminal cases during that time. During my first year as an AUSA, I generally appeared in court many times per month. As I moved into specialized sections focusing on larger investigations (narcotics, then white collar, then securities fraud), I appeared in court less frequently, but I still generally appeared at least a few times per month. During this period, essentially 100% of my practice was in litigation, although some investigative matters did not ultimately result in a decision to prosecute.

Since returning to private practice in 2006 (first at Bingham McCutchen from 2006 to 2009, then at Covington from 2009 to the present), I have appeared in court occasionally because my practice focuses largely on government and internal investigations that do not result in criminal or civil litigation. Over the last eight years, I estimate that 10% of my practice has been in litigation, with that percentage being higher for stretches when large matters have been particularly active.

## i. Indicate the percentage of your practice in:

- |                             |      |
|-----------------------------|------|
| 1. federal courts:          | >99% |
| 2. state courts of record:  | <1%  |
| 3. other courts:            | 0%   |
| 4. administrative agencies: | 0%   |

## ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 10% |
| 2. criminal proceedings: | 90% |

- 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 seven felony criminal cases to verdict. These trials included a six-week long securities fraud bench trial, a three-week long securities fraud jury trial, a jury trial of a cocaine conspiracy case involving multiple wiretaps, and a jury trial of two former officials of a Northern California tribe on charges of fraud and theft of tribal assets. I was lead counsel in five of these trials, and co-lead counsel in the other two.

## i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 85% |
| 2. non-jury: | 15% |

- 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 never practiced before the Supreme Court of the United States.

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:

- the date of representation;
- 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.

Since I have returned to private practice, the great majority of my cases have involved representing clients in confidential, non-public grand jury and other governmental investigations, and conducting legally-privileged internal investigations regarding potential legal violations. Very few of these matters have resulted in publicly-filed litigation. The ten matters listed below include publicly-filed cases I handled while a federal prosecutor, as well as cases I have handled in private practice.

1. *White et al. v. National Collegiate Athletic Association*, CV 06-0999 VBF, Central District of California, Judge Valerie Baker Fairbank, 2007 – 2008.

I represented the NCAA in a federal class action antitrust lawsuit brought by former college football and basketball players alleging that the rules governing financial aid awards to student athletes constituted an unlawful restraint on competition in violation of the Sherman Act. I joined the defense team when the case approached trial. I took and defended depositions and briefed and argued motions before the magistrate judge (the Hon. Margaret A. Nagle). The case settled before trial.

Opposing Counsel: Steven Sklaver  
Susman Godfrey LLP  
1901 Avenue of the Stars, Suite 950  
Los Angeles, CA 90067  
(310) 789-3123

Co-Counsel: Frank Hinman  
Bingham McCutchen LLP  
Three Embarcadero Center  
San Francisco, CA 94111  
(415) 393-2462

2. *United States v. Power Company, Inc. et al.*, CR 06-0186 PMP, District of Nevada, Judge Philip M. Pro, 2007 – 2008.

I represented Security Pacific Bank, which was a third-party petitioner in a federal criminal forfeiture proceeding. Following the criminal defendant's conviction on racketeering charges, the government forfeited a property purchased by the defendant with financing from Security Pacific. I prepared a petition to establish the validity of the bank's security interest in the forfeited property. Following substantial briefing and a series of hearings, the district court recognized the validity of Security Pacific's security interest in the forfeited property, finding that the bank made the

loan used to purchase the property in good faith. I was lead counsel for Security Pacific Bank on the case.

Opposing Counsel: Daniel Hollingsworth  
U.S. Attorney's Office for the  
District of Nevada  
333 South Las Vegas Boulevard  
Suite 5000  
Las Vegas, NV 89101  
(702) 388-6336

3. *United States v. Reliant Energy Services et al.*, CR 04-0125 VRW,  
Northern District of California, Judge Vaughn R. Walker, 2005 – 2006.

This was a federal prosecution of a corporation and four of its employees for commodity price manipulation, fraud, and conspiracy, based on alleged fraudulent conduct which inflated the price of electricity in the California spot market in 2000. I stepped in as lead trial counsel in 2005, a few months before trial was set to begin. I led the team's trial preparation effort, including preparing fact and expert witnesses, preparing an extensive brief explaining the basis for admission of co-conspirator statements, and arguing pretrial motions. The district court denied defendants' motion to dismiss the indictment, and the cases were resolved in 2007 after I left the U.S. Attorney's Office when the United States and the defendants entered into deferred prosecution agreements. Reliant paid a fine of \$22 million under the deferred prosecution agreement. I was lead counsel for the United States from the time the case was assigned to me.

Opposing Counsel: William Goodman  
Kasowitz Benson Torres & Friedman LLP  
101 California Street  
Suite 2300  
San Francisco, CA 94111  
(415) 421-6140  
(Reliant Energy Services)

Nanci Clarence  
Clarence Dyer & Cohen LLP  
899 Ellis Street  
San Francisco, CA 94109  
(415) 749-1800  
(Ms. Flowers)

Mary McNamara  
Swanson McNamara & Haller LLP  
300 Montgomery Street



San Francisco, CA 94104  
 (415) 477-3800  
 (Mr. Howard)

George Cotsirilos  
 Cotsirilos & Campisano  
 250 Montgomery Street  
 San Francisco, CA 94104  
 (415) 397-2373  
 (Mr. Thomas)

Co-Counsel: Michael Li-Ming Wong (formerly with the  
 U.S. Attorney's Office for the Northern  
 District of California)  
 Gibson, Dunn & Crutcher  
 555 Mission Street  
 Suite 3000  
 San Francisco, CA 94105  
 (415) 393-8333

4. *United States v. Hawkins*, CR 04-0106 MJJ, Northern District of California, Judge Martin J. Jenkins, 2004 – 2005.

This was a federal prosecution of the former Chief Financial Officer of a corporation for securities fraud, conspiracy to commit securities fraud and false statements to auditors. The indictment alleged that the defendant participated in an accounting fraud intended to inflate the company's quarterly revenue numbers by recognizing revenue from a fraudulent \$20 million transaction. I joined the trial team in this case shortly before trial was scheduled to begin. I handled portions of the pretrial briefing, including briefs regarding the required mental state for securities fraud. I conducted the direct and cross-examination of a number of witnesses at trial, and delivered the government's rebuttal closing argument. After an approximately six-week bench trial, Mr. Hawkins was acquitted. I was co-lead counsel from the time the case was assigned to me.

Opposing Counsel: Walter Brown  
 Orrick, Herrington & Sutcliffe LLP  
 405 Howard Street  
 San Francisco, CA 94105  
 (415) 773-5995

Melinda Haag (formerly with Orrick,  
 Herrington & Sutcliffe LLP)  
 United States Attorney  
 Northern District of California

450 Golden Gate Avenue  
San Francisco, CA 94102  
(415) 436-7200

Co-Counsel: Timothy Crudo (formerly with the U.S.  
Attorney's Office for the Northern District  
of California)  
Coblentz Patch Duffy & Bass LLP  
One Ferry Building, Suite 200  
San Francisco, CA 94111  
(415) 677-5219

5. *United States v. Hyde*, CR 02-0016 PJH, Northern District of California,  
Judge Phyllis J. Hamilton, 2003 – 2004.

This was a federal prosecution for fraud and money laundering based on the defendant's sale of fraudulent health care plans to employees of small businesses. The defendant collected premiums, but failed to deposit them into trust accounts as promised and failed to purchase a promised group health insurance policy from an established U.S. insurance company. Instead, the defendant purchased a group policy from an unrated company based in Aruba and operated by a convicted felon. I took a multi-day Rule 15 deposition of a key witness to preserve his testimony for trial, and also assisted with a Rule 15 deposition and witness interviews in Australia. Mr. Hyde pled guilty in September 2004. I prepared the government's sentencing memorandum and opposition to the defendant's motion to withdraw his guilty plea, and represented the government at the sentencing hearing. Mr. Hyde was sentenced to 41 months in prison. I was co-lead counsel in the case.

Opposing Counsel: Garrick Lew  
Law Offices of Garrick S. Lew  
1000 Brannan Street, Suite 488  
San Francisco, CA 94103  
(415) 575-3588

Co-Counsel: Matthew Jacobs (formerly with the U.S.  
Attorney's Office for the Northern District  
of California)  
Vinson & Elkins  
525 Market Street  
Suite 2750  
San Francisco, CA 94105  
(415) 979-6990

6. *United States v. Anderson and Malicay*, CR 02-00386 WHA, Northern District of California, Judge William H. Alsup, 2002 – 2003.

This was a federal prosecution of former tribal officials for theft of tribal resources, fraud and conspiracy. The defendants engaged in a kickback scheme in which they routed tribal funds to a vendor under a fictitious consulting agreement, and then had the vendor funnel the proceeds back to them personally. They also engaged in a scheme to defraud a lender into providing a loan through the submission of false loan documents. I led the investigation of this matter and prosecuted it from indictment through trial and appeal. At the trial, I gave the government's opening statement and closing argument, and conducted the direct examination of several key witnesses. Mr. Anderson and Mr. Malicay were convicted following a jury trial in June 2003. Mr. Anderson was sentenced to 12 months and one day in prison, and Mr. Malicay was sentenced to nine months in prison. On appeal, the Ninth Circuit confirmed that the district court had jurisdiction over the charged offenses, finding that Congress did not grant exclusive criminal jurisdiction to the State of California over Indian lands within its borders (*United States v. Anderson*, 391 F.3d 1083 (9th Cir. 2004)). I was lead counsel in the investigation and trial, and handled the appeal.

Opposing Counsel: George Boisseau  
George Boisseau Law Office  
740 4th Street  
Santa Rosa, CA 95404  
(707) 578-5636  
(Mr. Anderson)

Daniel Blank  
Office of the Federal Public Defender  
450 Golden Gate Avenue  
San Francisco, CA 94102  
(415) 436-7700  
(Mr. Malicay)

Co-Counsel: Ismail Ramsey (formerly with the U.S.  
Attorney's Office for the Northern District  
of California)  
Ramsey & Ehrlich LLP  
803 Hearst Avenue  
Berkeley, CA 94710  
(510) 548-3600

7. *United States v. Beattie et al.*, CR 00-0363 VRW, Northern District of California, Judges Vaughn R. Walker and Charles A. Legge (Judge Legge

retired while the case was pending, at which time the case was reassigned to Judge Walker), 2000 – 2003.

This was a federal prosecution for conspiracy to distribute cocaine and possession of cocaine with intent to distribute. The indictment charged Mr. Beattie and six co-defendants with participating in a conspiracy to transport large quantities of cocaine from Southern California to the San Francisco Bay Area for sale. I led the pre-charging investigation, which included a two-month wiretap on multiple telephone lines and involved the execution of numerous search warrants. I briefed and argued the government's opposition to defendants' motion to suppress the wiretap evidence, which the district court denied following an evidentiary hearing. After the remaining defendants entered guilty pleas, Mr. Beattie proceeded to a jury trial in January 2003. I conducted the direct examination of the government's key witnesses and delivered the government's opening statement and closing argument. The jury convicted Mr. Beattie on all counts. The jury found that the conspiracy involved five kilograms or more of cocaine, triggering a ten-year mandatory minimum sentence. Mr. Beattie was sentenced to 121 months in prison, and the Ninth Circuit upheld his conviction and sentence on appeal. I was lead counsel in the investigation and trial, and handled the appeal.

Opposing Counsel: Mark Rosenbush  
214 Duboce Avenue  
San Francisco, CA 94103  
(415) 861-3555

8. *United States v. Merriam*, CR 95-0245 MJJ, Northern District of California, Judge Martin J. Jenkins, 2000 – 2001.

This was a federal prosecution for securities fraud, wire fraud and conspiracy based on a stock manipulation scheme. The defendant artificially manipulated the price of his company's stock as part of a pump-and-dump scheme by falsifying documents, making cash payoffs to brokers, and omitting material information from offering documents. The scheme drove the stock price from 69 cents per share to over \$5 per share in two months. I conducted the direct examination of a number of fact and expert witnesses at trial, and cross-examined defense witnesses. I also delivered the government's closing argument. Following a three-week jury trial in January and February 2001, Mr. Merriam was convicted and sentenced to 41 months in prison. I was co-lead counsel on the case.

Opposing Counsel: William Osterhoudt  
Osterhoudt Law  
135 Belvedere Street

San Francisco, CA 94117  
(415) 664-4600

Co-Counsel: Miranda Kane (formerly with the U.S.  
Attorney's Office for the Northern District  
of California)  
Munger Tolles & Olson  
560 Mission Street, 27th Floor  
San Francisco, CA 94105  
(415) 512-4079

9. *United States v. Mendoza and Vasquez*, CR 99-0423 CRB, Northern District of California, Judge Charles R. Breyer, 1999 – 2000.

This was a federal prosecution for impersonating a federal officer and conspiring to defraud undocumented aliens by selling them counterfeit immigration documents. Mr. Mendoza posed as an employee of the Immigration and Naturalization Service and directed the victims to fill out phony applications for employment authorization documents, then charged each of them \$1,000 or more in cash for counterfeit documents he had purchased for \$60 each. I led the investigation in this matter and handled the pretrial motions practice. At trial, I conducted the direct examination of several key witnesses and delivered the government's closing argument. Following a jury trial in February 2000, Mr. Mendoza and Ms. Vasquez were convicted. I prepared the government's sentencing memorandum and represented the government at the sentencing hearing. At sentencing, the court imposed a two-level enhancement based on the vulnerable victim status of the undocumented alien victims. Mr. Mendoza was sentenced to 27 months in prison, and Ms. Vasquez was sentenced to five years' probation. On appeal, the Ninth Circuit affirmed the district court's application of the vulnerable victim enhancement (*United States v. Daniel Mendoza and Sandra Vasquez*, 262 F.3d 957 (9th Cir. 2001)). I was lead counsel in the investigation and at trial, and handled the appeal.

Opposing Counsel: Daniel Blank  
Office of the Federal Public Defender  
450 Golden Gate Avenue  
San Francisco, CA 94102  
(415) 436-7700  
(Mr. Mendoza)

Doug Young  
Farella, Braun & Martel  
235 Montgomery Street Suite 17  
San Francisco, CA 94104

(415) 954-4438  
(Ms. Vasquez)

10. *United States v. Silberberg*, CR 99-0213 MMC, Northern District of California, Judge Maxine M. Chesney, 1999 – 2000.

This was a federal prosecution for structuring financial transactions to avoid federally-mandated currency transaction reporting requirements. The indictment charged the defendant with making 41 separate bank withdrawals of less than \$10,000 over a five-month period to evade federal laws requiring transactions over that amount to be reported to the Internal Revenue Service. I was assigned to this case a few months before the trial date. I conducted the direct examination of the government's key witnesses, and delivered the government's opening statement and closing argument. Following a jury trial in December 1999, Mr. Silberberg was convicted. I represented the government in the sentencing proceedings, at which Mr. Silberberg was sentenced to a six-month term in a community confinement facility, a six-month term of home detention and a three-year term of probation. I was lead counsel from the time the case was assigned to me.

Opposing Counsel: Richard Hove  
(no longer practicing law)

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.)

Since I have returned to private practice, the great majority of my cases have involved representing clients in confidential, non-public grand jury and other governmental investigations, and conducting legally-privileged internal investigations regarding potential legal violations. Very few of these matters have resulted in publicly-filed litigation, and I am precluded from identifying particular clients in any non-public matters. These matters have included industrywide investigations by the Antitrust Division of the Department of Justice, investigations by the Criminal Division and U.S. Attorney's Offices under the False Claims Act or federal criminal statutes, and investigations by the Securities and Exchange Commission regarding suspected securities fraud offenses. I also routinely assist corporate clients in performing internal investigations to determine whether violations of law may have occurred. I have conducted internal investigations in or concerning a number of countries, including China, Indonesia, Spain, the United Kingdom, Ghana and Suriname.

In addition to my practice, I have served the legal community through a number of bar and committee activities. For example, I have twice served at the request of the District Court for the Northern District of California on review panels charged with making recommendations regarding the reappointment of magistrate judges. In 2013, I served as the Chair of the panel.

I have not performed any lobbying activity.

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.

My law firm typically distributes a portion of its current year income to partners on a deferred basis. As a partner in the firm, I would be entitled to receive such deferred payments. I would expect to receive any such payments from the firm's current fiscal year, which ends on September 30, by April 2015, and any payments for the following fiscal year by April 2016. Otherwise, I have no arrangements or expectations concerning future income or compensation.

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 plans, commitments or agreements to pursue compensated outside employment if I am appointed to the court. With regard to uncompensated civic and community activities, such as board service, I would evaluate any contemplated continued service to ensure that such activities comport with the Code of Conduct for United States Judges and any other relevant ethical canons or rules.

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.

I have no family members likely to present potential conflicts of interest. If a matter came before me that involved a former client or one of my former law firms, or another party implicating a potential conflict, I would assess the matter and respond as required by the Code of Conduct for United States Judges and any other relevant ethical canons or rules.

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

I have reviewed and would follow the Code of Conduct for United States Judges, including the provisions regarding identifying conflicts of interest. I would work with court administrative staff to provide any information required for the court's conflicts procedures. I do not anticipate facing frequent or complex financial or other conflicts issues, but would remain informed about my financial interests and those of my family, and identify potential conflicts and disqualify myself where required by the Code of Conduct.

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 time in private practice, I have represented clients in a range of pro bono matters, from individual representations to class action matters. For example, in 2012 and 2013, I represented a veteran of the war in Iraq who applied for Combat-Related Special Compensation benefits based on his disabling post-traumatic stress disorder and back injuries suffered in combat. I also was appointed by the Northern District of California's Criminal Justice Act Panel to represent indigent defendants in two federal criminal cases involving alleged conspiracies to distribute narcotics between 2007 and 2010. Early in my career, I represented a young man who fled Sierra Leone in the face of political persecution and helped him obtain political asylum in the United States.



In class actions, I represented a class of African-American Section 8 public housing voucher recipients in a federal lawsuit against the City of Antioch, California. The case alleged violations of class members' civil rights by the Antioch Police Department, and it settled in April 2012. Early in my career, I was part of a team representing the San Francisco National Association for the Advancement of Colored People in defending a San Francisco school desegregation consent decree entered by a federal court in 1983 against a class action constitutional challenge. The Ninth Circuit upheld the denial of plaintiffs' motion for summary judgment (*Ho v. San Francisco Unified Sch. Dist.*, 147 F.3d 854 (9th Cir. 1998)), and the case then settled (after I left the case team when I moved from private practice to the U.S. Attorney's Office).

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 January 20, 2014, I submitted an application to the chair of Senator Feinstein's Judicial Advisory Process. On March 28, 2014, I met with Senator Feinstein's bipartisan advisory committee for the Northern District of California in San Francisco, California. On April 9, 2014, I met with the chair of Senator Feinstein's Judicial Advisory Process in San Diego, California. Since June 20, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 29, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C.

- 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.

AO 10  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Gilliam Jr., Haywood S.	2. Court or Organization U.S. District Court, Northern District of California	3. Date of Report 08/18/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Nominee, U.S. District Judge, Active Status	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination Date 08/18/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/01/2013 to 08/18/2014
7. Chambers or Office Address Covington & Burling LLP One Front Street San Francisco, CA 94111		
<b>IMPORTANT NOTES:</b> The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.		

**I. POSITIONS.** (Reporting individual only; see pp. 9-13 of filing instructions.)

NONE (No reportable positions.)

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Partner	Covington & Burling LLP
2.	Board Member	Wiley Manuel Law Foundation
3.	Board Member	Vincent Academy/Partners in Oakland Education
4.	Board Member	Bar Association of San Francisco
5.	Trustee	Trust #1

**II. AGREEMENTS.** (Reporting individual only; see pp. 14-16 of filing instructions.)

NONE (No reportable agreements.)

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Gillian Jr., Haywood S.	<b>Date of Report</b> 08/18/2014
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**III. NON-INVESTMENT INCOME.** *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

**A. Filer's Non-Investment Income**

NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> <i>(yours, not spouse's)</i>
1. 2014	Partnership compensation from Covington & Burling	\$365,593.00
2. 2013	Partnership compensation from Covington & Burling	\$738,304.00
3. 2012	Partnership compensation from Covington & Burling	\$841,793.00
4.		

**B. Spouse's Non-Investment Income** - *If you were married during any portion of the reporting year, complete this section.*

*(Dollar amount not required except for honoraria.)*

NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2014	No reported income
2. 2013	San Francisco Superior Court, Salary
3.	
4.	

**IV. REIMBURSEMENTS** - *transportation, lodging, food, entertainment.*

*(Includes those to spouse and dependent children; see pp. 23-27 of filing instructions.)*

NONE *(No reportable reimbursements.)*

	<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1.	Exempt				
2.					
3.					
4.					
5.					

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting Gilliam Jr., Haywood S.	Date of Report 08/18/2014
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**V. GIFTS.** (Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)

NONE (No reportable gifts.)

	SOURCE	DESCRIPTION	VALUE
1. Exempt			
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** (Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)

NONE (No reportable liabilities.)

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

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<b>Name of Person Reporting</b> Gilliam Jr., Haywood S.	<b>Date of Report</b> 08/18/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-69 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
1. Behringer Harvard REIT I		None	J	T	Exempt					
2. Security Benefit Life Total Value Annuity		None	L	T						
3. Covington & Burling Capital Account		None	N	U						
4. Covington & Burling Defined Benefit Plan		None	M	U						
5. IRA #1	D	Dividend	M	T						
6. -Automatic Data Processing Stock										
7. -Bank of the Ozarks Stock										
8. -Canadian National Railway Stock										
9. -Cardinal Health Stock										
10. -Church & Dwight Stock										
11. -Ecolab Stock										
12. -EOG Resources Stock										
13. -Energy Transfer Partners LP										
14. -Enterprise Products Partners LP										
15. -Factset Research Systems Stock										
16. -Franklin Resources Stock										
17. -Grainger Stock										

1. Income Gain Codes: A = \$1,000 or less B = \$1,001 - \$2,500 C = \$2,501 - \$5,000 D = \$5,001 - \$15,000 E = \$15,001 - \$50,000  
 (See Columns B1 and D4)  
 F = \$50,001 - \$100,000 G = \$100,001 - \$1,000,000 H1 = \$1,000,001 - \$5,000,000 H2 = More than \$5,000,000  
 2. Value Codes: J = \$15,000 or less K = \$15,001 - \$50,000 L = \$50,001 - \$100,000 M = \$100,001 - \$250,000  
 (See Columns C1 and D3)  
 N = \$250,001 - \$500,000 O = \$500,001 - \$1,000,000 P1 = \$1,000,001 - \$5,000,000 P2 = \$5,000,001 - \$25,000,000  
 Q = \$25,000,001 - \$50,000,000 R = Cost (Real Estate Only) S = Assessment T = Cash Market  
 3. Value Method Codes: U = Book Value V = Other W = Estimated  
 (See Column C2)

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Gilliam Jr., Haywood S.	<b>Date of Report</b> 08/18/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-69 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "X" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
18. -Harris Corporation Stock										
19. -HCC Holdings Stock										
20. -Hormel Foods Stock										
21. -IBM Stock										
22. -Intel Stock										
23. -Lowe's Stock										
24. -Magellan Midstream Partners LP Stock										
25. -McCormick & Company Stock										
26. -Monsanto Stock										
27. -Nike Stock										
28. -ONEOK Partners LP Stock										
29. -Parker Hannifin Corporation Stock										
30. -PepsiCo Stock										
31. -Perrigo Stock										
32. -Plains All American Pipeline LP Stock										
33. -Polaris Industries Stock										
34. -Praxair Stock										

1. Income Code Codes: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000; F = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H = \$1,000,001 - \$5,000,000; I = More than \$5,000,000; J = \$15,001 - \$50,000; K = \$50,001 - \$100,000; L = \$100,001 - \$500,000; M = \$500,001 - \$250,000; N = \$250,001 - \$500,000; O = \$500,001 - \$1,000,000; P = \$1,000,001 - \$5,000,000; Q = \$5,000,001 - \$50,000,000; R = Cost (Real Estate Only); S = Assessment; T = Cash Market; U = Book Value; V = Other; W = Estimated

2. Value Codes (See Columns C1 and D3): X = \$15,000 or less; Y = \$15,001 - \$500,000; Z = \$500,001 - \$10,000,000

3. Value-Method Codes (See Column C2): R = Cost (Real Estate Only); S = Assessment; T = Cash Market; U = Book Value; V = Other; W = Estimated

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<b>Name of Person Reporting</b> Gilliam Jr., Haywood S.	<b>Date of Report</b> 08/18/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place '(X)' after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1) Amount	(2) Type (e.g., div., rent, or int.)	(1) Value	(2) Method	(3) Value	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
	Code 1 (A-I)		Code 2 (J-P)	Code 3 (Q-W)		Code 2 (J-P)		Code 1 (A-H)		
35. -Roche Holdings Stock										
36. -Roper Industries Stock										
37. -Sherwin Williams Stock										
38. -Sunoco Logistics Partners Stock										
39. -T. Rowe Price Group Stock										
40. -Tiffany & Company Stock										
41. -TIJX Stock										
42. -United Technologies Corporation Stock										
43. -Valspar Corporation Stock										
44. -VF Corporation Stock										
45. -Annaly Capital Management Inc. Stock (Y)										
46. -Bank of America Stock (Y)										
47. -Citigroup Stock (Y)										
48. -Danaher Corporation Stock (Y)										
49. -Family Dollar Stores Stock (Y)										
50. -Gameco Global Gold National Resources & Income Trust Stock (Y)										
51. -General Electric Stock (Y)										

1. Income Code: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000; F = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H1 = \$1,000,001 - \$5,000,000; H2 = More than \$5,000,000; J = \$15,000 or less; K = \$15,001 - \$50,000; L = \$50,001 - \$100,000; M = \$100,001 - \$250,000; N = \$250,001 - \$500,000; O = \$500,001 - \$1,000,000; P1 = \$1,000,001 - \$5,000,000; P2 = \$5,000,001 - \$25,000,000; P3 = \$25,000,001 - \$50,000,000; Q = Appraisal; R = Cost (Real Estate Only); S = Acquisition; T = Cash Market; U = Book Value; V = Other; W = Estimated

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<b>Name of Person Reporting</b> Gilliam Jr., Haywood S.	<b>Date of Report</b> 08/18/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
52. -HCP Inc. Stock (Y)									
53. -Johnson & Johnson Stock (Y)									
54. -Linn Energy LLC Stock (Y)									
55. -McDonalds Stock (Y)									
56. -Mine Safety Appliances Stock (Y)									
57. -Natural Resource Partners Stock (Y)									
58. -Niska Gas Storage Partners LLC Stock (Y)									
59. -Ross Stores Stock (Y)									
60. -SPDR Dow Jones Real Estate ETF (Y)									
61. -Vanguard Small-Cap Index Fund (Y)									
62. -Walter Energy Inc. Stock (Y)									
63. -World Wrestling Entertainment Stock (Y)									
64. IRA #2	B	Dividend	K	T					
65. -Alliance Bernstein High Income Fund									
66. -American Century Value Fund									
67. -BlackRock Multi-Asset Income Fund									
68. -Calamos Market Neutral Income Fund									

1. Income Code: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000; F = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H = \$1,000,001 - \$5,000,000; I = \$5,000,001 - \$25,000,000; J = \$25,000,001 - \$50,000,000; K = \$50,000,001 - \$100,000,000; L = \$100,000,001 - \$250,000,000; M = \$250,000,001 - \$500,000,000; N = \$500,000,001 - \$1,000,000,000; O = \$1,000,000,001 - \$50,000,000,000; P = \$50,000,000,001 - \$500,000,000,000; Q = Appraisal; R = Cost (Real Estate Only); S = Assessment; T = Cash Market; U = Book Value; V = Other; W = Estimated

2. Value Code: (See Columns C1 and D3)

3. Value Method Code: (See Column C2)



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<b>Name of Person Reporting</b> Gilliam Jr., Haywood S.	<b>Date of Report</b> 08/18/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-68 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B Income during reporting period		C Gross value at end of reporting period				D Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)		
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)		
69. -Goldman Sachs Rising Dividend Fund											
70. -Goldman Sachs Strategic Income Fund											
71. -iShares Morningstar Small-Cap Value ETF											
72. -Lord Abbett Bond Debeniture Fund											
73. -Lord Abbett Short Duration Income Fund											
74. -Matthews Asia Dividend Fund											
75. -Oakmark Global Fund											
76. -Oppenheimer Discovery Fund											
77. -Putnam Equity Income Fund											
78. -Vanguard FTSE All-World ex-US ETF											
79. -Vanguard Mega Cap ETF											
80. -Wells Fargo Advantage Premier Fund											
81. -Loomis Sayles Core Plus Bond Fund (Y)											
82. -Metropolitan West High Yield Bond Fund (Y)											
83. -SPDR Consumer Staples Select Sector Fund (Y)											
84. -Templeton Global Bond Fund (Y)											
85. -Vanguard Short-Term Corporate Bond ETF (Y)											

1. Income Gain Codes: (See Columns B1 and D4)  
 2. Value Codes: (See Columns C1 and D3)  
 3. Value Method Codes: (See Column C2)

A = \$1,000 or less  
 F = \$50,001 - \$100,000  
 J = \$15,000 or less  
 N = \$250,001 - \$500,000  
 P = \$25,000,001 - \$50,000,000  
 Q = Appraisal  
 U = Book Value

B = \$1,001 - \$2,500  
 G = \$100,001 - \$1,000,000  
 K = \$15,001 - \$50,000  
 O = \$500,001 - \$1,000,000  
 R = Cost (Real Estate Only)  
 V = Other

C = \$2,501 - \$5,000  
 H = \$1,000,001 - \$5,000,000  
 L = \$50,001 - \$100,000  
 P = \$1,000,001 - \$5,000,000  
 W = Estimated

D = \$5,001 - \$15,000  
 I = More than \$5,000,000  
 M = \$100,001 - \$250,000  
 S = Assessment  
 T = Cash Market

E = \$15,001 - \$50,000  
 N = More than \$250,000  
 P = \$25,000,001 - \$50,000,000

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Gillian Jr., Haywood S.	<b>Date of Report</b> 08/18/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
86. Brokerage Account #1									
87. -iShares S&P Global Energy Sector ETF	A	Dividend	J	T					
88. American Funds College 2018 Fund -- 529		None	M	T					
89. Schwab Managed Retirement Trust Income Fund		None	M	T					
90. Citibank cash accounts	A	Interest	M	T					
91. Chase cash accounts	A	Interest	J	T					
92. Trust #1									
93. -Personal Residence (Oakland, CA)		None	P1	W					

1. Income Gain Codes: A = \$1,000 or less B = \$1,001 - \$2,500 C = \$2,501 - \$5,000 D = \$5,001 - \$15,000 E = \$15,001 - \$50,000  
 (See Columns B1 and D4)  
 F = \$50,001 - \$100,000 G = \$100,001 - \$1,000,000 H = \$1,000,001 - \$5,000,000 I = \$5,000,001 - \$25,000,000 J = \$25,000,001 - \$50,000,000 K = \$50,000,001 - \$100,000,000 L = \$100,000,001 - \$500,000,000 M = \$500,000,001 - \$1,000,000,000 N = \$1,000,000,001 - \$5,000,000,000 O = \$5,000,000,001 - \$10,000,000,000 P = \$10,000,000,001 - \$50,000,000,000 Q = \$50,000,000,001 - \$500,000,000,000 R = Cost (Real Estate Only) S = Assessment T = Cash Market  
 (See Columns C1 and D3)  
 U = Appraisal V = Book Value W = Other X = Estimated  
 3. Value Method Codes: A = \$1,000 or less B = \$1,001 - \$2,500 C = \$2,501 - \$5,000 D = \$5,001 - \$15,000 E = \$15,001 - \$50,000  
 F = \$50,001 - \$100,000 G = \$100,001 - \$1,000,000 H = \$1,000,001 - \$5,000,000 I = \$5,000,001 - \$25,000,000 J = \$25,000,001 - \$50,000,000 K = \$50,000,001 - \$100,000,000 L = \$100,000,001 - \$500,000,000 M = \$500,000,001 - \$1,000,000,000 N = \$1,000,000,001 - \$5,000,000,000 O = \$5,000,000,001 - \$10,000,000,000 P = \$10,000,000,001 - \$50,000,000,000 Q = \$50,000,000,001 - \$500,000,000,000 R = Cost (Real Estate Only) S = Assessment T = Cash Market  
 (See Column C2)  
 U = Appraisal V = Book Value W = Other X = Estimated

**FINANCIAL DISCLOSURE REPORT**  
Page 10 of 11

Name of Person Reporting	Date of Report
Gilliam Jr., Haywood S.	08/18/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

**FINANCIAL DISCLOSURE REPORT**  
Page 11 of 11

Name of Person Reporting	Date of Report
Gilliam Jr., Haywood S.	08/18/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *S/* Haywood S. Gilliam Jr.

**NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)**

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

## FINANCIAL STATEMENT

## NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		136	692	Notes payable to banks-secured (auto)		28	138
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		624	316	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		918	243
Real estate owned – personal residence	1	450	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		160	000	Student loan		6	677
Cash value-life insurance							
Other assets itemize:							
Covington & Burling capital account		281	300				
Covington & Burling defined benefit plan		164	107				
Security Benefit Life Total Value Annuity		84	158	Total liabilities		953	058
				Net Worth	1	947	515
Total Assets	2	900	573	Total liabilities and net worth	2	900	573
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

**FINANCIAL STATEMENT**  
NET WORTH SCHEDULES

<u>Listed Securities</u>	
Automatic Data Processing stock	\$ 6,911
Bank of the Ozarks stock	4,923
Canadian National Railway stock	5,681
Cardinal Health stock	5,373
Church & Dwight stock	3,209
Ecolab stock	4,341
Energy Transfer Partners LP stock	4,353
Enterprise Products Partners LP stock	4,450
EOG Resources stock	4,378
Factset Research Systems stock	5,406
Franklin Resources stock	4,603
Grainger stock	7,055
Harris Corporation stock	3,755
HCC Holdings stock	3,268
Hormel Foods stock	1,810
IBM stock	4,792
Intel stock	5,592
Lowe's stock	2,871
Magellan Midstream Partners LP stock	17,760
McCormick & Company stock	4,276
Monsanto stock	1,696
Nike stock	3,857
ONEOK Partners LP stock	1,682
Parker Hannifin Corporation stock	5,173
Pepsico stock	5,286
Perrigo stock	6,770
Plains All American Pipeline LP stock	8,586
Polaris Industries stock	3,689
Praxair stock	3,844
Roche Holdings stock	2,547
Roper Industries stock	6,483
Sherwin Williams stock	4,125
Sunoco Logistics Partners stock	5,771
T. Rowe Price Group stock	1,942
Tiffany & Company stock	4,392
TJX stock	4,263
United Technologies Corporation stock	1,577
Valspar Corporation stock	3,377
VF Corporation stock	4,902
AllianceBernstein High Income Fund	2,194
American Century Value Fund	2,215

561

American Funds College 2018 Fund -529	215,958
Behringer Harvard Tier REIT	4,886
BlackRock Multi-Asset Income Fund	2,570
Calamos Market Neutral Income Fund	2,054
Goldman Sachs Rising Dividend Fund	4,181
Goldman Sachs Strategic Income Fund	3,691
iShares Morningstar Small-Cap Value ETF	1,588
iShares S&P Global Energy Sector ETF	1,637
Lord Abbett Bond Debenture Fund	3,353
Lord Abbett Short Duration Income Fund	2,457
Matthews Asia Dividend Fund	1,927
Oakmark Global Fund	2,349
Oppenheimer Discovery Fund	2,087
Putnam Equity Income Fund	2,207
Schwab Managed Retirement Trust Income Fund	176,030
Vanguard FTSE All-World ex-US ETF	2,524
Vanguard Mega Cap ETF	3,439
Wells Fargo Advantage Premier Fund	2,200
Total Listed Securities	<u>\$624,316</u>

Real Estate Mortgages Payable

Personal residence – mortgage	\$ 675,943
Personal residence – home equity line of credit	<u>242,300</u>
Total Real Estate Mortgages Payable	<u>\$ 918,243</u>

AFFIDAVIT

I, Haywood S. Gilliam, Jr., do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

August 18, 2014  
(DATE)

Haywood S. Gilliam, Jr.  
(NAME)

\_\_\_\_\_  
(NOTARY)



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California
County of San Francisco
On August 18, 2014 before me, Elizabeth Erlich
personally appeared Haywood S. Gilliam, Jr.

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Elizabeth Erlich
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document: Affidavit

Document Date: August 18, 2014 Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Form with two columns for signers, including checkboxes for Corporate Officer, Individual, Partner, Attorney in Fact, Trustee, Guardian or Conservator, and Other. Includes 'RIGHT THUMBPRINT OF SIGNER' boxes.

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

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

United States District Court for the District of Columbia
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:           Zuckerman Spaeder, LLP  
                    1800 M Street, N.W., Suite 1000  
                    Washington, D.C. 20036

Residence:     Washington, D.C.
4. **Birthplace:** State year and place of birth.  

1971; Patan, Gujarat, India
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.  

1994 – 1997, University of Virginia School of Law; J.D., 1997

1990 – 1993, Georgetown University; B.A., 1993

1989 – 1990, James Madison University; no degree
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.

2007 – present, August – December 2003, 1999 – 2002  
Zuckerman Spaeder, LLP  
1800 M Street, N.W., Suite 1000  
Washington, D.C. 20036  
Partner (2010 – present)  
Counsel (2007 – 2010)  
Associate (1999 – 2002)

2002 – 2007 (on leave of absence from August – December 2003)  
Public Defender Service for the District of Columbia  
633 Indiana Avenue, N.W.  
Washington, D.C. 20004  
Staff Attorney

1998 – 1999  
The Honorable Susan P. Graber  
United States Court of Appeals for the Ninth Circuit  
The Pioneer Courthouse  
700 SW 6th Avenue  
Portland, Oregon 97204  
Law Clerk

1997 – 1998, Summer 1996  
Latham & Watkins, LLP  
505 Montgomery Street  
Suite 2000  
San Francisco, California 94111-6538  
Associate (1997 – 1998)  
Summer Associate (Summer 1996)

Summer 1995  
United States Attorney's Office for the District of Maryland  
36 South Charles Street, Fourth Floor  
Baltimore, Maryland 21201  
Law Clerk

1993 – 1994  
Patton Boggs, LLP  
2550 M Street, N.W.  
Washington, D.C. 20037  
Paralegal

Other affiliations (uncompensated):

2011 – present  
Edward Bennett Williams Inn of Court

United States District Court for the District of Columbia  
333 Constitution Avenue, N.W.  
Washington, D.C. 20001  
Secretary

2009 – present  
Mid-Atlantic Innocence Project  
2000 H Street, N.W.  
Washington, D.C. 20052  
Vice-President, Board of Directors (2013 – 2014)  
Board of Directors (2009 – present)

Approximately 2007 – 2011  
Facilitating Leadership in Youth  
2021 Martin Luther King Jr. Avenue, S.E.  
Washington, D.C. 20020  
Board of Directors

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 did not serve in the military. I did timely register for selective service.

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.

*Super Lawyers* (2013 – present)

*Benchmark Litigation* (2011 – present)

*Fellow*, Litigation Counsel of America (2011 – present)

*The Economic Times*, 7 Prominent Legal Eagles of Indian Origin in the U.S. (2013)

*The National Law Journal*, Minority 40 Under 40 (2011)

Order of the Coif, University of Virginia School of Law (1997)

The Virginia Journal of Social Policy and the Law (1996 – 1997)

George F. Baker Scholar, Georgetown University (1992 – 1993)

Phi Beta Kappa, Georgetown University (1993)

Alpha Sigma Nu, Georgetown University (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.

American Bar Association

White Collar Crime, Public Corruption and Extortion Subcommittee, Co-Chair  
(2013 – present)

Council for Court Excellence

Committee Member, District of Columbia Expungement Project Subcommittee

District of Columbia Bar Association

Criminal Law and Individual Rights Steering Committee (2004 – 2010), Co-Chair  
(2008 – 2009)

National Association of Criminal Defense Lawyers

South Asian Bar Association, District of Columbia Chapter

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.

District of Columbia, 2000  
California, 1997 (inactive)

There have been no lapses in membership, although as indicated, my membership in California is inactive.

- 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.

California courts, 1997 (inactive)  
District of Columbia courts, 2000  
Supreme Court of the United States, 2014  
United States Court of Appeals for the District of Columbia Circuit, 2000  
United States Court of Appeals for the Fifth Circuit, 2011  
United States Court of Appeals for the Ninth Circuit, 1998  
United States Court of Appeals for the Tenth Circuit, 2001  
United States Court of Appeals for the Eleventh Circuit, 2013

United States District Court for the District of Columbia, 2007  
United States District Court for the Northern District of California, 1997

There have been no lapses in membership to my knowledge, although as indicated, my membership in California is inactive.

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.

Edward Bennett Williams Inn of Court (2001 – present)  
Secretary (2011 – present)

Facilitating Leadership in Youth (approximately 2007 – 2011)  
Board of Directors

George F. Baker Scholars (1997 – present)

John Eaton Home and School Association (2012 – present)

Litigation Counsel of America (2011 – present)  
Selection Committee, Thomas A. Mesereau Cup (February 2014 – present)

Mid-Atlantic Innocence Project (2009 – present)  
Board Vice-President (2013 – 2014)

North Grounds Softball League (1994 – 1997)  
Commissioner

- 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 the best of my knowledge, none of the listed organizations 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.

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.

Frederika A. Kaestle, Ricky Kittles, et al., *Database Limitations on the Evidentiary Value of Forensic Mitochondrial DNA Evidence*, 43 Am. Crim. L. Rev. 53 (Winter 2006) (served as reviewer). Copy supplied.

My law firm maintains a website (www.zuckerman.com). Much of the content was prepared by our firm's marketing staff, but I personally prepared some of the web content and have overall responsibility for the website.

- 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.

I am not aware of any materials responsive to this request.

- 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.

In 2005, I served as a representative for the District of Columbia Public Defender Service on a subcommittee sponsored by the Council for Court Excellence in Washington, D.C. At the time, the District of Columbia lacked a comprehensive criminal records expungement statute. The subcommittee examined the issue and made recommendations to the Council for the District of Columbia for legislative action in 2006. The subcommittee produced a report entitled "Creating an Expungement Statute for the District of Columbia: A Report and Proposed Legislation," Council for Court Excellence, Washington, D.C., April 14, 2006. 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.

The following list reflects my best effort to identify the public speaking events in which I have participated. To compile the list, I consulted my own files and Internet sources. However, there may be public speaking events that I have been unable to recall or identify.

December 5, 2013: Moderator, "Recalibrating Privacy in the 21st Century: Government Intelligence Gathering and the Fourth Amendment," Plenary Session, District of Columbia Courts Annual Judicial Training, Washington, D.C. The panel discussed NSA surveillance programs and implications for Fourth Amendment jurisprudence. I have no notes, transcript or recording. The address for the District of Columbia Courts is 555 Indiana Avenue, N.W., #6000, Washington, D.C. 20001.

June 21, 2013: Panelist, "Criminalizing the Traditional Practice of Law," North American South Asian Bar Association, 2013 Annual Convention, San Francisco, California. I have no notes, transcript or recording. I am unable to locate a mailing address for the North American South Asian Bar Association.

November 15, 2012: Panelist, "Political Indictments: Criminalizing Violations of the Public Trust," National Association of Criminal Defense Lawyers, White Collar Seminar, New York, New York. The panel discussed legal developments in the law on political corruption and practice pointers in defending political corruption prosecutions. I have no notes, transcript or recording, but press coverage is supplied. The mailing address for the National Association of Criminal Defense Lawyers is 1660 L Street, N.W., 12th Floor, Washington, D.C. 20036.

September 5, 2012: Speaker, "Dinner with Mr. Amit Mehta," Network of South Asian Professionals, Washington, D.C. The event concerned general career advice to young South Asian professionals. I have no notes, transcript or recording. I am unable to locate a mailing address for the Network of South Asian Professionals in Washington, D.C.

June 24, 2012: Moderator, "An Evening with Neal Katyal," sponsored by the South Asian Bar Association of Washington, D.C. The presentation involved a question and answer session with Neal Katyal of Hogan Lovells LLP. I have no notes, transcript or recording. The mailing address for the South Asian Bar Association of Washington, D.C., is P.O. Box 65349, Washington, D.C. 20035.

May 19, 2012: Speaker, "Health Care Fraud and Abuse: What Physicians Need



to Know,” sponsored by the Florida Association of Physicians of Indian Origin, Tampa, Florida. The presentation generally discussed federal health care enforcement and statutes applicable to practicing physicians. PowerPoint supplied.

September 2, 2011: Panelist, “Litigation 101: What Business Executives & In-House Counsel Should Think About When Faced With Litigation,” Network of Indian Professionals of North America, 2011 Annual Conference, Washington, D.C. The panel discussed the obligations and responsibilities of business executives whose companies face civil or criminal litigation. I have no notes, transcript or recording. I am unable to locate a mailing address for the Network of Indian Professionals of North America.

May 4, 2011: Panelist, “Beware the Invisible Export Controls,” American Bar Association Section of International Law, Washington, D.C. The panel discussed recent developments in export control laws and enhanced export control enforcement. Audio recording is available at: [http://www.americanbar.org/content/dam/aba/multimedia/international\\_law/mp3/20110504\\_export\\_controls.authcheckdam.mp3](http://www.americanbar.org/content/dam/aba/multimedia/international_law/mp3/20110504_export_controls.authcheckdam.mp3).

April 9, 2010: Moderator, panel for the District of Columbia Judicial and Bar Conference, Washington, D.C. The panel discussed *Brady* reform in the aftermath of the prosecution of Senator Ted Stevens. I have no notes, transcript or recording. The mailing address of the District of Columbia Bar Association is 1101 K Street, N.W., Suite 200, Washington, D.C. 20005.

- 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.

Articles:

WorldECR, “D.C. Focus. The City. The Law. The Lawyers,” 2014. Copy supplied.

Arise America News, “US India Diplomatic Flap,” Dec. 18, 2013. Video clip available at <https://www.youtube.com/watch?v=o-3MLiRNnE4>.

Litigation Commentary and Review, “Fellow Spotlight,” February/March 2012. Copy supplied.

Aziz Haniffa, *Meet Strauss-Kahn’s Defender, One of America’s Top Young Lawyers*, India Abroad, Nov. 18, 2011, at A14 & A16. Copy supplied.

*Indictments Postponed for Welch, Johnson*, Associated Press, July 28, 2000.  
Copy supplied.

Press Statements:

The following represents my best effort to compile case-related press statements. To compile the list, I consulted news sources and my own files. There may be case-related press releases that I have been unable to recall or identify.

December 10, 2012: Press statement concerning settlement in *Diallo v. Strauss-Kahn*, Index No. 307065/2011 (Supreme Court, Bronx County). Representative press coverage supplied.

November 30, 2012: Press statement concerning reporting of potential settlement in *Diallo v. Strauss-Kahn*, Index No. 307065/2011 (Supreme Court, Bronx County). Representative press coverage supplied.

June 12, 2012: Press statement concerning filing of notice of appeal in *Diallo v. Strauss-Kahn*, Index No. 307065/2011 (Supreme Court, Bronx County). I have been unable to obtain representative press coverage.

May 1, 2012: Press statement concerning denial of motion to dismiss in *Diallo v. Strauss-Kahn*, Index No. 307065/2011 (Supreme Court, Bronx County). Representative press coverage supplied.

September 26, 2011: Press statement held with co-counsel concerning filing of motion to dismiss in *Diallo v. Strauss-Kahn*, Index No. 307065/2011 (Supreme Court, Bronx County). Press statement and representative press coverage 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.

I have not served as a judge.

- 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.
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:

I have not served as a judge.

- 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.

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.

I have not held public office. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

- 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.

In 2013, my wife and I hosted fundraisers for the campaign of Gregg Bernstein for Baltimore City State's Attorney. In 2010, my wife and I hosted a fundraiser for the campaign of Gregg Bernstein for Baltimore City State's Attorney. Additionally, we volunteered on election day for Mr. Bernstein's campaign by displaying signs near a polling station. In 2008, on a volunteer basis, I raised and collected from friends, to the best of my recollection, no more than \$500 in contributions for the presidential campaign of Senator Barack Obama.

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;

From 1998 to 1999, I served as a law clerk to The Honorable Susan P. Graber on the United States Court of Appeals for the Ninth Circuit.

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

I have not practiced 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.

1997 – 1998  
Latham & Watkins, LLP  
505 Montgomery Street  
Suite 2000  
San Francisco, CA 94111-6538  
Associate (1997 – 1998)

2002 – 2007 (on leave of absence from August – December 2003)  
Public Defender Service for the District of Columbia  
633 Indiana Avenue, N.W.  
Washington, D.C. 20004  
Staff Attorney

1999 – 2002, August – December 2003, 2007 – present  
Zuckerman Spaeder, LLP  
1800 M Street, N.W.  
Washington, D.C. 20036  
Partner (2010 – present)  
Counsel (2007 – 2010)  
Associate (1999 – 2002, 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 in alternative dispute resolution proceedings.

b. Describe:

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

I first began practicing law in 1997 at the law firm of Latham & Watkins LLP. My work there consisted mainly of legal research, drafting pleadings in trial and appellate proceedings, writing legal and factual memoranda, and reviewing documents in white-collar criminal investigations and in business dispute litigation.

Following my clerkship, in September 1999, I joined the law firm of Zuckerman Spaeder LLP as an associate. During this period, I worked primarily in the areas of criminal defense and civil litigation.

In 2002, I joined the Public Defender Service for the District of Columbia as a staff attorney. At the Public Defender Service, I spent five years representing indigent clients charged with crimes in proceedings before the Superior Court for the District of Columbia and in quasi-criminal proceedings before the United States Parole Commission. I was lead counsel in approximately 100 felony and misdemeanor cases, of which approximately 15 to 20 were tried to verdict before juries or judges. By the end of my tenure at the Public Defender Service, almost all of my representations involved serious felonies, including homicides, sexual assaults, and other violent crimes. I was part of the Agency's Forensic Practice Group, which provided support to lawyers on forensic science issues. I also represented over 100 clients in parole or supervised release revocation proceedings before the United States Parole Commission. Finally, I argued two cases before the Court of Appeals for the District of Columbia.

I returned to Zuckerman Spaeder in 2007 as counsel and became a partner in 2010. My practice at Zuckerman Spaeder has focused on representing companies and individuals in criminal prosecutions and investigations, and federal civil enforcement actions, and in complex civil litigation. My criminal and civil enforcement representations have included cases involving financial fraud, public corruption, antitrust laws, sanctions and export control regimes, securities laws, gaming prohibitions, and environmental regulations. My civil matters have included business disputes, antitrust laws, and tort claims. I also have briefed and argued cases before the federal courts and the District of Columbia Court of Appeals in criminal and post-conviction cases.

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

At Latham & Watkins LLP, my typical clients were companies and individuals involved in criminal investigations or civil disputes in federal and state courts.

At the Public Defender Service, my clients were persons charged with felony or misdemeanor offenses in the District of Columbia Superior Court or accused of violating the terms of parole or supervised release before the United States Parole Commission.

At Zuckerman Spaeder LLP, my typical clients have been companies and

individuals involved in criminal prosecutions and investigations, federal civil enforcement actions, or civil disputes in federal and state courts. I also have represented individuals in post-conviction proceedings in the federal and District of Columbia trial and appellate courts.

- 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.

Over 95% of my practice has been devoted to litigation or litigation-related matters (such as representing clients involved in pre-indictment investigations or conducting internal investigations). My counseling work for clients has been limited. As an associate at Latham & Watkins, LLP, I recall only one court appearance in a pro bono case. As an associate at Zuckerman Spaeder LLP, I was involved in a federal criminal case in the District of Utah that resulted in the acquittal of the former President of the Salt Lake Olympic Organizing Committee. Except for that case, my court appearances as an associate were rare. While at the Public Defender Service, as a full-time trial-division attorney, I appeared in court, on average, three to four times per week. I also argued two cases before the District of Columbia Court of Appeals. Since rejoining Zuckerman Spaeder in 2007, I have appeared in federal court and District of Columbia Superior Court on a consistent basis. I would estimate that, over the last seven years, on average, I have appeared in trial courts three to seven times per year. I also have had two appellate court arguments during that period.

- i. Indicate the percentage of your practice in:
- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 45% |
| 2. state courts of record:  | 50% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 5%  |

- ii. Indicate the percentage of your practice in:
- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 35% |
| 2. criminal proceedings: | 65% |

- 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.

Over the course of my career, I have tried approximately 20 cases to verdict, most of which took place while I was a staff attorney at the Public Defender Service. As a public defender, I was the lead counsel in most of my tried cases. At Zuckerman Spaeder, I have been lead counsel in one civil bench trial and one misdemeanor bench trial. When I was an associate, I was the junior member of a criminal defense team in a case tried in federal court.

- i. What percentage of these trials were:
- |              |     |
|--------------|-----|
| 1. jury:     | 70% |
| 2. non-jury: | 30% |

- 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 filed one petition for certiorari before the Supreme Court of the United States in *Reddy v. United States*, No. 14-5191 (2014). Copy supplied.

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:

- the date of representation;
- the name of the court and the name of the judge or judges before whom the case was litigated; and
- the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

- In re Oil Spill By the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, Case No. 2:10-md-2179-CJB-SS, *Bon Secour Fisheries, Inc. v. BP Exploration & Production, Inc.* (E.D. La.) (Judge Carl Barbier, presiding)

Since September 2013, I have served as counsel to Mr. Lerner in the Deepwater Horizon Oil Spill multi-district litigation. Mr. Lerner is a partner in AndryLerner, LLC, a law firm in New Orleans, Louisiana, which represents claimants before the Deepwater Horizon Economic & Real Property Claims Center. Mr. Lerner is the subject of an Order to Show Cause, which proposes to deny him payment of attorney's fees, after Special Master Louis J. Freeh issued an investigative report accusing Mr. Lerner of making payments to an employee of the Claims Center to influence the claims process. On behalf of Mr. Lerner, we have sought to obtain discovery, objected to the scope of the Special Master's powers, and responded to the report's accusations. A decision on the Order to Show Cause is pending.

Co-counsel to Lerner

William W. Taylor, III



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2. *Steinbronn v. UCI*, 2009 CA 9127 (D.C. Super. Ct.) (Judge Franklin A. Burgess, Jr.)

From 2010 to 2013, I was primary counsel to UCI (f/k/a Unification Church International), a District of Columbia non-profit corporation, in a suit brought against UCI by its former in-house counsel, Mr. Steinbronn. Mr. Steinbronn filed suit against UCI and others in December 2009, alleging, in part, that UCI had converted certain personal property and documents in August 2009, when UCI locked Mr. Steinbronn out of his office after learning that he had aligned himself with interests adverse to the company. Mr. Steinbronn's single claim of conversion of property went to a bench trial before the Honorable Franklin A. Burgess in October 2012. Judge Burgess found substantially in favor of UCI, awarding Mr. Steinbronn \$1 in damages and ordering the return of certain personal documents. The District of Columbia Court of Appeals affirmed the judgment in November 2013 in an unpublished memorandum opinion (80 A.2d 864 (table)). I drafted the briefs and presented the oral argument before the District of Columbia Court of Appeals.

Co-counsel for UCI

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Following entry of judgment, Mr. Steinbronn proceeded *pro se*, including before the District of Columbia Court of Appeals.

3. *United States v. Mitchell*, Nos. 11-CO-1677 & 12-CO-1412 (D.C.), 1993 FEL 011175 (D.C. Super. Ct.) (Judge Russell F. Canan, presiding)

Mr. Mitchell and his co-defendant, Mr. Gathers, were convicted of first-degree murder in 1994 and continue to serve a lengthy prison term. Since 2010, I have been lead counsel to Mr. Mitchell *pro bono* in post-conviction proceedings in the District of Columbia courts. On behalf of Mr. Mitchell, I filed a petition under the Innocence Protection Act, which asserted Mr. Mitchell's actual innocence, and a motion under D.C. Code § 23-110, which argued that Mr. Mitchell was entitled to a new trial because the conviction rested on material false testimony. Following a multi-day evidentiary hearing, the trial court denied Mr. Mitchell relief. The trial court's denial of relief is pending before the District of Columbia Court of Appeals. I co-authored the petitioners' appellate briefs.

Counsel for Petitioner Gathers

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Counsel for the United States

David Goodhand (before the appellate court)  
T. Anthony Quinn (before the trial court)  
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4. *Cloverleaf Enterprises, Inc. v. Maryland Thoroughbred Horsemen's Ass'n, Inc., et al.*, Civil Action No. RDB 10-407 (D. Md.) (Judge Richard D. Bennett, presiding)

Reported decisions: 730 F. Supp. 2d 451 (D. Md. 2010)  
2010 WL 4293338 (D. Md. Nov. 1, 2010)

In 2010, I was principal counsel for Cloverleaf Enterprises, Inc., the owner and operator of Rosecroft Racecourse, a Maryland standardbred racetrack, in a suit brought by Cloverleaf Enterprises against, among others, the Maryland Jockey Club of Baltimore City, Inc., and the Maryland Thoroughbred Horsemen's Association for violations of Sections 1 and 2 of the Sherman Antitrust Act. Cloverleaf Enterprises alleged that the defendants had engaged in a group boycott orchestrated to destroy

competition in off-track betting and to monopolize the off-track betting market in the state of Maryland. The defendants filed motions to dismiss, and I drafted the oppositions and argued them before the trial court. The court denied defendants' motions, allowing the Sherman Act claims to proceed. The case was resolved soon thereafter.

Co-counsel for Cloverleaf Enterprises

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Jerrold A. Thrope  
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233 East Redwood Street  
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Counsel for Defendants TrackNet Media Group, LLC, Churchill Downs, Inc., Churchill Downs (t/a Arlington Park), Churchill Downs, Inc. (t/a Calder Race Course), and Churchill Dows Racetrack

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5. *United States v. Cabelly*, No. 09-278 (D.D.C.) (Judge John Bates, presiding)

Since 2008, I have served as co-counsel to Mr. Cabelly, a former State Department official and consultant accused of violating the Sudan sanctions regulations. Mr. Cabelly was alleged to have provided business consulting and brokering services to Sudanese government officials and businessmen. Following pre-trial litigation, including challenges to the government's collection of evidence under the Foreign Intelligence Surveillance Act and search warrants executed on Mr. Cabelly's place of business, Mr. Cabelly accepted a plea bargain to a single felony count. At sentencing, Mr. Cabelly received an eight-month term of incarceration.

Co-counsel for Cabelly

Aitan D. Goelman  
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United States Commodity Futures Trading Commission  
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Counsel for the United States

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6. *United States v. Hanson*, Crim. No. 09-0071 (PLF) (D.D.C. 2011) (Judge Paul L. Friedman, presiding)

Reported decisions: 613 F. Supp. 2d 85 (D.D.C. 2009)

From 2009 to 2011, I was lead counsel for Ms. Hanson. Ms. Hanson and her husband were charged with violating U.S. export control laws for shipping allegedly regulated items without an export license. If convicted, Ms. Hanson faced a multi-year jail sentence. Following pre-trial litigation, the government dropped the export control charges and agreed to resolve the case on a no-jail basis. The *Hanson* case remains one of the few cases in which a defendant charged with export control violations has not been convicted on that charge.

Counsel for Defendant Hanson

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Carney & Carney  
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Counsel for the United States

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7. *In re Grand Jury Subpoenas*, No. 08-3056 (D.C. Cir.) (Judges Ginsburg and Kavanaugh, and Senior Judge Williams), No. 1:07mc00319 (D.D.C. 2007) (Chief Judge Thomas Hogan, presiding)

Reported decisions: 571 F.3d 1200 (D.C. Cir. 2009)

From 2007 to 2009, I was the second-chair counsel representing a Congressman who was the subject of a grand jury investigation concerning alleged false statements made to the House Ethics Committee. The grand jury sought documents from the Congressman's lawyers who assisted him in preparing responses to the Ethics Committee. The district court denied the motion to quash the grand jury subpoenas. On appeal, the D.C. Circuit reversed, holding that the Congressman's lawyers' files were protected from disclosure under the Speech or Debate Clause. The D.C. Circuit's decision affirmed that the Speech or Debate Clause protects from Executive Branch scrutiny statements made by a Congressman to an ethics committee. I was the primary drafter of the pleadings in the district court and the briefs in the District of Columbia Court of Appeals.

Co-counsel for the Congressman

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8. *United States v. Drayton*, No. 03-CM-658 (D.C. 2005) (Judges Terry, Farrell, and Senior Judge King)

Reported Decision: 877 A.2d 145 (D.C. 2005)

In 2004, I represented Ms. Drayton on appeal from her conviction for attempted possession of a prohibited weapon and simple assault arising out of an altercation with her minor son. The government's evidence against Ms. Drayton consisted almost entirely of the testimony of two police officers who responded to the scene and interviewed her son. Her son did not testify at trial. I briefed and argued the matter before the District of Columbia Court of Appeals. The court reversed her convictions on the ground that the government's presentation of hearsay evidence violated her Sixth Amendment right to confront her accuser, as interpreted by the Supreme Court of the United States in *Crawford v. Washington*, 541 U.S. 36 (2004). *Drayton* was one of the first post-*Crawford* decisions published in the District of Columbia.

Co-counsel for Drayton

James Klein

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Counsel for the United States

The Honorable Roy W. McLeese III  
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 District of Columbia Court of Appeals  
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9. *United States v. Speaks*, F-1001-05 (D.C. Super. Ct. 2005) (Judge Hiram Puig-Lugo, presiding)

Reported decision: 959 A.2d 712 (D.C. 2008)

In 2005, I represented Mr. Speaks, in what, at the time, was the most serious felony case I had tried to verdict. Mr. Speaks was charged with, among other things, armed carjacking, armed kidnapping, and cruelty to children, arising from his entry into a car containing three minors. As part of the defense, I cross-examined government experts, including a DNA expert. After a two-week trial, the jury acquitted Mr. Speaks of the most serious felony charges, but convicted on lesser offenses. He was sentenced to time served. On appeal, the District of Columbia Court of Appeals addressed a novel question about the application of the voluntary D.C. Sentencing Guidelines. The Court of Appeals held that it is not an abuse discretion for a trial court to impose a sentence that is inconsistent with an interpretative guidance to the D.C. Sentencing Guidelines, so long as the sentence is statutorily lawful.

Counsel for the United States

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10. *United States v. Welch*, Case No. 00-CR-324 S. (D. Utah) (Judge David Sam, presiding; Magistrate Judge Ronald N. Boyce)

Reported decisions: 198 F.R.D. 545 (D. Utah 2001)



201 F.R.D. 521 (D. Utah 2001)  
248 F. Supp. 2d 1047 (D. Utah 2001), *rev'd*, 327 F.3d 1081  
(10th Cir. 2003)

From 1999 to 2002 and October to December 2003, I was the junior member of the defense team that secured the acquittal of Mr. Welch, the former head of the Salt Lake City Olympic Organizing Committee. The grand jury charged Mr. Welch with, among other things, racketeering, mail/wire fraud, and commercial bribery in federal court in Utah. In July 2001, the district court dismissed the indictment on the ground that the government failed to charge a crime as a matter of law. On appeal, the Tenth Circuit Court of Appeals reinstated the charges in April 2003. The case went to trial at the end of October 2003. After six weeks of government evidence, Mr. Welch was acquitted by the court under Federal Rule of Criminal Procedure 29.

Co-counsel for Defendant Welch

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National Health Law Program  
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Counsel for Defendant Johnson

Max D. Wheeler  
Camille N. Johnson  
Snow, Christensen & Martineau  
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Salt Lake City, UT 84111  
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The Honorable Robert J. Shelby  
(formerly an attorney with Snow Christensen & Martineau)  
Judge, United States District Court for the District of Utah  
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Counsel for the United States

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John W. Scott  
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 Section)  
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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.)

A substantial part of my practice at Zuckerman Spaeder has been in the areas of white-collar criminal defense and civil enforcement actions. As a result, many of my client representations have involved companies and individuals in internal investigations or government investigations that did not result in litigation or ended with settlements before trial. For instance, I conducted an internal investigation for a public company under investigation by the U.S. Department of Justice for criminal anti-trust violations. Additionally, I was part of a team of lawyers who represented the former CFO of Canadian pharmaceuticals manufacturer, Biovail, in a civil enforcement matter brought by the U.S. Securities and Exchange Commission, which settled on the eve of trial. I also have represented multiple individuals against whom no criminal or enforcement proceeding was brought.

At the District of Columbia Public Defender Service, I participated in legislative activity by serving on a committee under the auspices of The Council for Court Excellence whose purpose was to develop legislation that would broaden the right of individuals to seal records of arrests and certain convictions for District of Columbia Code violations. I have not, however, performed any 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.

Upon leaving my law firm, I would receive payment of my remaining share of partnership and bonus income. The timing of these payments would be based on firm policy and the relevant ethics rules.

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 do not have any plans, commitments, or agreements to pursue outside employment, with or without compensation, if confirmed to serve on the court.

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 Financial Disclosure Report.

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

See Statement of Net Worth.

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, the main conflict of interest I would likely confront involves my law firm, where my wife is also presently a partner. I would handle all matters concerning recusal by consulting the rules and decisions that address what constitutes a conflict of interest or the appearance of a conflict of interest. I also would recuse myself from any case handled by the Mid-Atlantic Innocence

Project or any case in which the Project was a party, to the extent that my membership on the organization's Board of Directors remains consistent with my judicial responsibilities.

Moreover, cases involving former clients could present a conflict of interest or create the appearance of a conflict of interest. In such cases, I would refer to 28 U.S.C. §§ 455, Canon 3 of the Code of Conduct for United States Judges, as well as any other applicable canons, rules, and statutes. I would notify the parties of the potential conflict and seek their input, and consult with other judges, if needed. I would take all of these factors into account in determining the appropriate action, including possible recusal.

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

I would refer to 28 U.S.C. §§ 455, Canon 3 of the Code of Conduct for United States Judges, as well as any other applicable canons, rules, and statutes. I also would notify the parties of the potential conflict and seek their input, and consult with other judges, if needed. I would take all of these factors into account in determining the appropriate action, including possible recusal.

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.

Since 2010, I have represented Keith Mitchell *pro bono* in post-conviction proceedings in the District of Columbia courts. Mr. Mitchell was convicted of first-degree murder in May 1994. In 2009, evidence came to light that the sole eyewitness against Mr. Mitchell had recanted his testimony and that additional investigation had identified other possible perpetrators of the offense. Furthermore, other evidence showed that key testimony presented by a Metropolitan Police Department detective was in fact false. On behalf of Mr. Mitchell, I filed a petition under the Innocence Protection Act and under D.C. Code § 23-110. The trial court denied relief, and the matter is now pending before the District of Columbia Court of Appeals. I have worked over 450 pro bono hours on Mr. Mitchell's case since 2010.

Since 2009, I have served on the Board of Directors of the Mid-Atlantic Innocence Project, a legal services organization whose purpose is to correct and prevent wrongful convictions.

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 April 14, 2014, I submitted a Judicial Candidate Questionnaire to Representative Eleanor Holmes Norton's District of Columbia Federal Law Enforcement Nominating Commission. I interviewed with the Commission on May 6, 2014, and with Congresswoman Norton on June 2, 2014. Since June 4, 2014, I have been in contact with officials from the Department of Justice Office of Legal Policy. On July 15, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On July 31, 2014, 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.

AO 10  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Mehta, Amit P.	2. Court or Organization U.S. District Court, District of Columbia	3. Date of Report 7/31/2014
4. Title (Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge - Active	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination      Date 7/31/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 1/1/2013 to 7/2/2014
7. Chambers or Office Address Zuckerman Spaeder LLP 1800 M Street NW, Suite 1000 Washington, D.C. 20016		
<b>IMPORTANT NOTES:</b> The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.		

**I. POSITIONS.** (Reporting individual only; see pp. 9-13 of filing instructions.)

NONE (No reportable positions.)

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Partner	Zuckerman Spaeder LLP
2.	Director	Mid-Atlantic Innocence Project
3.		
4.		
5.		

**II. AGREEMENTS.** (Reporting individual only; see pp. 14-16 of filing instructions.)

NONE (No reportable agreements.)

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

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Name of Person Reporting Mehta, Amit P.	Date of Report 7/31/2014
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**III. NON-INVESTMENT INCOME.** (Reporting individual and spouse; see pp. 17-24 of filing instructions.)

**A. Filer's Non-Investment Income**

NONE (No reportable non-investment income.)

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2014	Zuckerman Spaeder LLP, gross partnership income during calendar year for provision of legal services	\$203,018.00
2. 2013	Zuckerman Spaeder LLP, gross partnership income during calendar year for provision of legal services	\$425,000.00
3. 2012	Zuckerman Spaeder LLP, gross partnership income during calendar year for provision of legal services	\$420,000.00
4.		

**B. Spouse's Non-Investment Income** - If you were married during any portion of the reporting year, complete this section.  
(Dollar amount not required except for honoraria.)

NONE (No reportable non-investment income.)

DATE	SOURCE AND TYPE
1. 2014	Zuckerman Spaeder LLP, partnership income for provision of legal services
2. 2013	Zuckerman Spaeder LLP, partnership income for provision of legal services
3.	
4.	

**IV. REIMBURSEMENTS** -- transportation, lodging, food, entertainment.  
(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

NONE (No reportable reimbursements.)

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

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**V. GIFTS.** (Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)

NONE (No reportable gifts.)

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1.	Exempt		
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** (Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)

NONE (No reportable liabilities.)

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.	ACS	Student Loan	K
2.			
3.			
4.			
5.			



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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period				D. Transactions during reporting period				
	(1) Amount	(2) Type (e.g., div., rent, or int.)	(1) Value	(2) Value	(1) Type (e.g., buy, sell, redemption)	(2) Date	(3) Value	(4) Gain	(5) Identity of buyer/seller (if private transaction)		
	Code 1 (A-H)		Code 2 (J-P)	Code 3 (Q-W)		num/dt/yy	Code 2 (J-P)	Code 1 (A-H)			
1. Citibank Accounts	A	Interest	K	T	Exempt						
2. Merrill Lynch Accounts	A	Interest	L	T							
3.											
4. 401(k) #1	D	Dividend	N	T							
5. - American Funds EuroPacific Growth Fund											
6. - American Funds Growth Fund of America											
7. - American Funds New Perspective Fund											
8. - American Funds Smallcap World Fund											
9.											
10. 401(k) #2	E	Dividend	O	T							
11. - American Funds Growth Fund of America											
12. - American Funds New Perspective Fund											
13. - American Funds Washington Mutual Investors Fund											
14.											
15. DC 529 Accounts:											
16. Calvert Balanced Portfolio		None	K	T							
17. DC College Savings Plan Age 0-5		None	K	T							

1. Income Data Codes: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000  
 (See Columns B1 and D4)  
 P = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H1 = \$1,000,001 - \$5,000,000; H2 = More than \$5,000,000  
 2. Value Codes: F = \$15,000 or less; I = \$50,001 - \$100,000; L = \$50,001 - \$100,000; M = \$100,001 - \$250,000  
 (See Columns C1 and D3)  
 N = \$250,001 - \$500,000; O = \$500,001 - \$1,000,000; P1 = \$1,000,001 - \$5,000,000; P2 = \$5,000,001 - \$25,000,000  
 3. Value Method Codes: Q = Appraisal; R = Cost (Real Estate Only); S = Assessed; T = Cash Market  
 (See Column C2)  
 U = Book Value; V = Other; W = Estimated

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<b>Name of Person Reporting</b> Mehta, Amit P.	<b>Date of Report</b> 7/31/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "OX" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
18. DC College Savings Plan Age 6-10		None	K	T					
19.									
20. IRA #1	D	Dividend	M	T					
21. - Merrill Lynch (IRA) (Money Fund)									
22. - Amazon.com Common Stock									
23. - Automation Common Stock									
24. - Blackrock Global Allocation Fund Institutional Shares									
25. - Capital One Financial Common Stock									
26. - Citigroup, Inc. Common Stock									
27. - Cognizant Tech Solutions Common Stock									
28. - Dollar Tree, Inc. Common Stock									
29. - Eaton Corp. Common Stock									
30. - Enesco PLC Class A Ordinary Shares									
31. - Fifth Third Bancorp Common Stock									
32. - First Eagle Global Fund									
33. - General Dynamics Corp. Common Stock									
34. - General Motors Co. Common Stock									

1. Income Gain Codes: A=\$1,000 or less B=\$1,001 - \$2,500 C=\$2,501 - \$5,000 D=\$5,001 - \$15,000 E=\$15,001 - \$50,000  
 (See Columns B1 and D4) F=\$50,001 - \$100,000 G=\$100,001 - \$1,000,000 H=\$1,000,001 - \$5,000,000 I2=More than \$5,000,000  
 2. Value Codes: J=\$15,000 or less K=\$15,001 - \$50,000 L=\$50,001 - \$100,000 M=\$100,001 - \$250,000  
 (See Columns C1 and D3) N=\$250,001 - \$500,000 O=\$500,001 - \$1,000,000 P1=\$1,000,001 - \$5,000,000 P2=\$5,000,001 - \$25,000,000  
 3. Value Method Codes: Q=Appraisal R=Cost (Real Estate Only) S=Assessment T=Cash Market  
 (See Column C2) U=Book Value V=Other W=Estimated

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<b>Name of Person Reporting</b> Mehta, Amit P.	<b>Date of Report</b> 7/31/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Code 3 Method (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
35. - Hess Corp. Common Stock										
36. - Intercontinental Exchange, Inc. Common Stock										
37. - iShares, 1-3 Year Credit Bond ETF										
38. - Ivy Asset Strategy Fund										
39. - Nobel Corp. Common Stock										
40. - O'Reilly Automotive, Inc. Common Stock										
41. - SPDR Barclays Short Term High Yield Bond ETF										
42. - Vanguard Short-Term Bond ETF										
43. - Walt Disney Co. Common Stock										
44. - Wells Fargo Co. Common Stock										
45. - iShares iBoxx \$ Investment Grade Crp Bond										
46. - iShares JP Morgan USD Emerg Markets Bond										
47. Principal Global Div Inc. P										
48. - SPDR Barclays Capital High Yield Bond ETF										
49. - Ivy Small Cap Growth I										
50.										
51.										

1. Income Gain Codes: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000  
 (See Columns B1 and D4)  
 F = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H1 = \$1,000,001 - \$5,000,000; H2 = More than \$5,000,000  
 2. Value Codes: J = \$15,000 or less; K = \$15,001 - \$50,000; L = \$50,001 - \$100,000; M = \$100,001 - \$250,000  
 (See Columns C1 and D3)  
 N = \$250,001 - \$500,000; O = \$500,001 - \$1,000,000; P1 = \$1,000,001 - \$5,000,000; P2 = \$5,000,001 - \$25,000,000  
 3. Value Method Codes: Q = Appraisal; R = Cost (Real Estate Only); S = Assessment; T = Cash Market  
 (See Column C2)  
 U = Book Value; V = Other; W = Estimated

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**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

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**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/ Amit P. Mehta*

**NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)**

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

## FINANCIAL STATEMENT

## NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		68	762	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	1	173	159	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others		84	045	Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		921	634
Real estate owned – personal residence	1	535	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		19	000	Education loans		34	716
Cash value-life insurance							
Other assets itemize:							
				Total liabilities		956	350
				Net Worth	1	923	616
Total Assets	2	879	966	Total liabilities and net worth	2	879	966
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor		12	000	Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	Yes		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

## FINANCIAL STATEMENT

## NET WORTH SCHEDULES

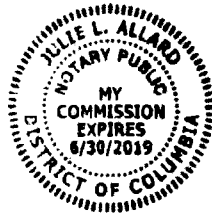
<u>Listed Securities</u>	
Amazon stock	\$ 3,228
American Funds EuroPacific Growth Fund	90,399
American Funds Growth Fund of America	190,602
American Funds New Perspective Fund	297,205
American Funds SMALLCAP World Fund	105,480
American Funds Washington Mutual Investors Fund	185,526
Autonation Inc. stock	4,192
BlackRock Global Allocation Fund	23,580
Calvert Balanced Portfolio	48,404
Capital One Financial stock	5,102
Citigroup, Inc. stock	4,064
Cognizant Tech Solutions stock	3,807
DC College Savings Plan Age 0-5	20,849
DC College Savings Plan Age 6-10	44,021
Dollar Tree, Inc. stock	3,614
Eaton Corp. stock	4,950
EnSCO PLC stock	9,292
Fifth Third Bancorp stock	7,710
First Eagle Global Fund	24,035
General Dynamics Corp. stock	5,882
General Motors Co. stock	4,601
Hess Corp. stock	5,726
Intercontinental Exchange, Inc. stock	3,304
iShares 1-3 Year Credit Bond ETF	11,072
Ivy Asset Strategy Fund	22,517
Nobel Corp. stock	8,433
O'Reilly Automotive, Inc. stock	4,279
SPDR Barclays Short Term High Yield Bond ETF	11,498
Vanguard Short-Term Bond ETF	11,228
Walt Disney Co. stock	3,175
Wells Fargo & Co. stock	5,384
Total Listed Securities	<u>\$ 1,173,159</u>

AFFIDAVIT

I, Amit Priyavadan Mehta, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

8/1/14  
(DATE)

Amit Mehta  
(NAME)



Julie L. Allard  
(NOTARY) 8/1/14



**Senator Grassley  
Questions for the Record**

**Allison Burroughs  
Nominee, U.S. District Judge for the District of Massachusetts**

1. I asked you one question about the death penalty in your hearing, but I would like to further understand your position on this issue. You have written and commented that seeking the death penalty in certain states, may not be worth the expense of prosecutorial resources that are required in a death penalty case.
  - a. Can you expand on and explain your view in this area?
  - b. What factors do you think should be taken into consideration when the government is deciding whether to pursue the death penalty in a case?
2. In 2010, you signed a letter that criticized the *Citizens United* decision. The letter stated that the decision “was not only wrongly decided but represents a serious danger to effective self-government of, for and by the American people.” It also called the decision a “radical and erroneous interpretation of the First Amendment.”
  - a. Do you stand by the statements made in that letter?
  - b. As a district judge, you would be required to follow Supreme Court precedent. If confirmed, would you be able to apply the Supreme Court’s decision in *Citizens United* to a case before you?
3. What is the most important attribute of a judge, and do you possess it?
4. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
5. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
6. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
7. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?

8. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
9. In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.
10. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?
11. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
12. If confirmed, how do you intend to manage your caseload?
13. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?
14. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?
15. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
16. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.
  - a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>
    - i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.
    - ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

- iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
  - iv. Are you committed to upholding this precedent?
- b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
- c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
- d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
- e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was

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<sup>2</sup> *Id.* 2689-2690.

<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.”<sup>5</sup>

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
17. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.
  - a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.
  - b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
18. Please describe with particularity the process by which these questions were answered.
19. Do these answers reflect your true and personal views?

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<sup>5</sup> *Id.* (internal citations omitted).

**Senator Grassley**  
**Questions for the Record**

**Jeanne Davidson**  
**Nominee, Court of International Trade**

1. Please describe factors you will take into account as you consider the appropriate level of deference the Court of International Trade (CIT) should give to the U.S. International Trade Commission (ITC) on questions of statutory interpretation, particularly in appeals of determinations in antidumping and countervailing duty cases.
2. Please describe your view on the appropriate level of deference the CIT should give to the ITC on questions of fact when presented with “Substantial Evidence” questions and challenges. What will be your approach to such challenges, and what factors would you consider in such cases?
3. Do you agree with the Federal Circuit’s decision in *SFK USA, Inc. v. U.S. Customs and Border Protection*, 556 F.3d 1337 (2009) regarding the constitutionality of the Byrd Amendment to the Continued Dumping and Subsidy Offset Act (CDSOA) of 2000? What will be your approach in cases regulating commercial speech?
4. What is the most important attribute of a judge, and do you possess it?
5. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
6. In general, Supreme Court precedents are binding on all lower federal courts, and Federal Circuit precedents are binding on the Court of International Trade. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
7. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
8. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
9. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
10. In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.

11. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?
12. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
13. Please describe your understanding of the workload of the Court of International Trade. If confirmed, how do you intend to manage your caseload?
14. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?
15. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?
16. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
17. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.
  - a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.
  - b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
18. Please describe with particularity the process by which these questions were answered.
19. Do these answers reflect your true and personal views?

**Senator Grassley  
Questions for the Record**

**Haywood Gilliam, Jr.  
Nominee, U.S. District Judge for the Northern District of California**

1. Can you describe your role with the NAACP in the San Francisco case involving race quotas in high schools? What legal positions were at issue and what legal arguments were you presenting?
2. How would you approach a qui tam case if it came before your court, if you are confirmed?
3. In 1986, I authored an update the Federal False Claims Act which reinvigorated the qui tam provisions and has helped recover over \$30 billion in taxpayer dollars.
  - a. Could you please briefly describe your experience with the False Claims Act, in general, and specifically any work you did with qui tam whistleblowers?
  - b. What is your view regarding the constitutionality of the False Claims Act and its qui tam provisions?
4. What factors should a judge consider when determining whether or not to award a portion of the government's recovery to qui tam whistleblowers, or determining the amount to award?
5. If confirmed, will you ensure that qui tam whistleblowers are afforded all the rights and privileges authorized by the False Claims Act?
6. What is the most important attribute of a judge, and do you possess it?
7. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
8. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
9. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?

10. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
11. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
12. In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.
13. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?
14. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
15. If confirmed, how do you intend to manage your caseload?
16. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?
17. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?
18. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
19. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.
  - a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>
    - i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.



- ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?
  - iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
  - iv. Are you committed to upholding this precedent?
- b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
- c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
- d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?

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<sup>2</sup> *Id.* 2689-2690.

<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

- e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
20. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.
- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.
  - b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
21. Please describe with particularity the process by which these questions were answered.
22. Do these answers reflect your true and personal views?

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<sup>5</sup> *Id.* (internal citations omitted).

**Senator Grassley  
Questions for the Record**

**Amit Mehta  
Nominee, U.S. District Judge for the District of Columbia**

1. What is the most important attribute of a judge, and do you possess it?
2. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
3. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
4. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
5. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
6. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
7. In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.
8. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?
9. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
10. If confirmed, how do you intend to manage your caseload?
11. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?
12. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that

come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?

13. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
14. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.
  - a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>
    - i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.
    - ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?
    - iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
    - iv. Are you committed to upholding this precedent?
  - b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>
    - i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court’s opinion full force and effect?

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.

- c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
- d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the [p]rotection of offspring, property interests, and the enforcement of marital responsibilities.”<sup>4</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
- e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
  - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
15. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.
- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

<sup>5</sup> *Id.* (internal citations omitted).

individuals you had contact with, the dates of the contacts, and the subject matter of the communications.

- b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
16. Please describe with particularity the process by which these questions were answered.
17. Do these answers reflect your true and personal views?

Chairman Charles E. Grassley  
Additional Questions for the Record

Jeanne Davidson  
Nominee for U.S. Court of International Trade

**Fraud before a Federal Court/Obstruction of Federal Arson Investigation**

On December 1, 2014, U.S. Court of Federal Claims Judge Francis Allegra issued an opinion in which he remanded the case of *Dobyns v. U.S.* to the Circuit Court to determine if U.S. Department of Justice attorneys may have committed fraud on the court. Unsealed court documents also raise questions as to whether Judge Allegra has barred you from representing the government in this case. In his opinion, Judge Allegra stated that at least two instances of conduct by defendant's counsel could have constituted fraud on the court.

**Interference with re-opening the arson investigation:** First, he wrote that ATF Office of Chief Counsel Attorney Valerie Bacon attempted to convince ATF supervisors not to reopen an investigation into the arson of Agent Dobyns' residence because it would damage DOJ's defense in the civil case brought against DOJ by Mr. Dobyns. According to Judge Allegra:

On or about March 21, 2013, defendant's attorneys (and their supervisors) received emails from plaintiff's attorney complaining about the contacts made by Ms. Bacon to SAC Atteberry [SAC Atteberry testified that Ms. Bacon told him that if he reopened the investigation it would damage the Civil Division's defense of the lawsuit brought by Mr. Dobyns. Later, defendant's counsel acknowledged these contacts and admitted that Ms. Bacon made the same comments to another ATF agent from the same office.] It appears that defendant's attorneys did not respond to these emails or take any action in response thereto.<sup>1</sup>

Defendant's filings regarding this situation demonstrated not only that its counsel—including supervisors in the Civil Division, who received email communications on this topic from plaintiff's counsel in March of 2013—were aware of Ms. Bacon's actions prior to the trial in this case, but did nothing to apprise the court of her actions or of the potential that the integrity of these proceedings were at risk.<sup>2</sup> (emphasis added)

You were one of the DOJ attorneys on this case who received multiple e-mails from plaintiff's counsel on this issue.

**Failure to advise the court of a threat against an ATF Internal Affairs investigator:** Second, Judge Allegra's December 1, 2014, opinion describes an additional allegation of fraud on the court in which he states Mr. David Harrington, one of the defense counsels on record and someone you directly supervised during this case, failed to advise the court of a threat made against an ATF Internal Affairs investigator who testified in the case. Even more worrisome is

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<sup>1</sup> *Dobyns v. United States*, U.S. Court of Federal Claims, Opinion dated December 1, 2014 (emphasis added).

<sup>2</sup> *Id*

Judge Allegra's statement that Mr. Harrington threatened the career of this investigator after he requested permission to bring the matter to the Court's attention:

...that defendant's attorneys may have committed other violations of the duty of candor, including a potential failure to advise the court that an ATF agent who testified in the case may have been threatened by another witness during the trial. ...defendant's counsel ordered the agent in question not to communicate the threat to the court and stated that there would be [career] repercussions if the agent did not follow counsel's instructions. This matter has since been referred to the Office of Professional Responsibility at the Justice Department.<sup>3</sup>

Judge Allegra also stated "the court finds that significant portions of the testimony of two witnesses [ATF ASAC George Gillett and ATF Agent Charles Higman] unworthy of belief." Based on Judge Allegra's opinion, the government's actions in this case raise serious concerns.

**Withholding tape recorded conversations in discovery:** In addition to these issues in Judge Allegra's order, the government has also admitted to withholding from pre-trial discovery two tape recorded, exculpatory phone calls between ATF arson investigators and Mr. Dobyms that would have damaged the government's case. Plaintiff's counsel was only made aware of these recordings, which were made when Mr. Dobyms was still being considered as a suspect in the arson of his own home, at a deposition of an ATF arson investigator.

- A. On March 21, 2013, you received an e-mail from Mr. Dobyms' attorney which alleged that ATF's Office of Chief Counsel had obstructed justice by attempting to stop the arson investigation from being reopened because it would damage the Civil Division's defense against Mr. Dobyms' civil case. Did you report these allegations to Judge Allegra, the Office of Personal Responsibility or the Inspector General? If not, please explain why not.
- B. As Director of the Commercial Litigation Branch of the Civil Division did you have any contact with Valerie Bacon regarding Mr. Dobyms? If so, please describe your contacts in detail.
- C. Did you know, prior to the trial, that Valerie Bacon "attempted to convince SAC Atteberry not to re-open the arson investigation" so as not to "damage our civil case"<sup>4</sup>? If so, how and when did you learn of Bacon's conversation with Atteberry?
- D. Do you believe Ms. Bacon's actions described by Judge Allegra were appropriate? What steps did you take once you learned of them?
- E. On February 8, 2013, you wrote a letter to Mr. Dobyms' attorney, in response to his various email communications alleging improprieties by Mr. Harrington, stating that you were convinced that his complaints were without merit and that no inappropriate conduct had occurred.

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*



- a. What steps did you take to examine the allegations and on what did you base your determination that the complaint was without merit?
  - b. Did you question Mr. Harrington as to whether he attempted to discourage an ATF investigator from bringing to the Court's attention that he had been threatened by another witness?
  - c. Did you ask Mr. Harrington if he had threatened career repercussions against the investigator?
  - d. Did you speak to Internal Affairs Investigator Christopher Trainor about these allegations?
  - e. Who else did you speak to about these allegations?
  - f. What questions did you ask them?
- F. Mr. Doby's attorney alleges attorneys from your office, in a case you directly worked on, withheld from pre-trial discovery two secretly recorded conversations that were made by an ATF arson investigator at the time when Mr. Doby's was being considered a suspect in the arson of his own home.
- a. Are these allegations correct?
  - b. If so, when did you become aware that the government failed to produce this evidence?
  - c. Why were these phone calls not disclosed to plaintiff's counsel during discovery?
  - d. How did you become aware of these discovery violations and what actions, if any, did you take as a result?
- G. When and how did you first become aware of Judge Allegra's December 1, 2014 order?
- H. What actions, if any, did you take after becoming aware of the order?
- I. Are you currently barred from appearing before the U.S. Court of Federal Claims in the matter of *Doby's v. United States*?
- J. Judge Allegra found that Mr. Gillett and Mr. Higman gave false testimony at trial.
- a. What role did you play in preparing their testimony?

- b. What steps, if any, did you take to verify their testimony?

Questions for the Record  
Senator Ted Cruz

Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.

Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?

If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?

Explain whether you agree that "State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power." *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).

Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?

What are the judicially enforceable limits on the President's ability to issue executive orders or executive actions?

When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?

When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?

Do you "expect that [15] years from now, the use of racial preferences will no longer be necessary" in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).

**Senator Grassley  
Questions for the Record**

**Allison Burroughs  
Nominee, U.S. District Judge for the District of Massachusetts**

1. **I asked you one question about the death penalty in your hearing, but I would like to further understand your position on this issue. You have written and commented that seeking the death penalty in certain states, may not be worth the expense of prosecutorial resources that are required in a death penalty case.**

- a. **Can you expand on and explain your view in this area?**

Response: First, I want to make clear that if I am fortunate enough to be confirmed as a district court judge, my decisions would be based on law and facts, not on any positions I took on behalf of clients and not on any statements I previously made or wrote. In February 2014, I authored an op-ed, which noted that “[a]ccording to a recent report by the Boston Bar Association, a single federal death penalty case in Philadelphia was found to cost upwards of \$10 million — an estimated eight times higher than the cost of trying a death eligible case where the prosecutors seek only life imprisonment” and then questioned whether seeking the death penalty is worth the time and resources when the likelihood that the penalty will be carried out is highly remote. I did not make any comments regarding the death penalty as a legal matter, and if confirmed, I pledge to faithfully apply all federal laws involving death-eligible crimes.

- b. **What factors do you think should be taken into consideration when the government is deciding whether to pursue the death penalty in a case?**

Response: If confirmed as a judge, I would, of course, have no opinion on whether the government should pursue the death penalty in any given case. Based on my experience as an Assistant United States Attorney, I am aware that the Attorney General and Congress have issued guidelines for making these determinations as set forth in Title 18 U.S.C. §§ 3591 and 3592 and in the U.S. Attorney’s Manual at 9-10.140. The relevant factors include, but are not limited to, statutory and non statutory aggravating and mitigating factors, the strength of the evidence, the role of the defendant, the circumstances of the offense, the backgrounds and criminal records of the defendant and victim and the views of the victim’s family.

2. **In 2010, you signed a letter that criticized the *Citizens United* decision. The letter stated that the decision “was not only wrongly decided but represents a serious danger to effective self-government of, for and by the American people.” It also called the decision a “radical and erroneous interpretation of the First Amendment.”**

- a. **Do you stand by the statements made in that letter?**

Response: Although I signed the letter in 2010, I didn't author it and now regret its tone. *Citizens United* is binding precedent and I would apply it regardless of my personal views. I want to make clear that if I am fortunate enough to be confirmed as a district court judge, my decisions would be based on law and facts, and not on any position I took on behalf of clients or on any statements I previously made, wrote or joined.

- b. As a district judge, you would be required to follow Supreme Court precedent. If confirmed, would you be able to apply the Supreme Court's decision in *Citizens United* to a case before you?**

Response: Yes.

- 3. What is the most important attribute of a judge, and do you possess it?**

Response: I believe the most important attribute of a judge is the ability to fairly and impartially make a decision, based on law and applicable precedent, in a timely way. I further believe that I have this ability.

- 4. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: I believe that a judge has to be open minded, fair and decisive. A judge also needs to be a good listener, smart, humble and willing to work hard enough to be the best prepared person in the courtroom. I also think it important that a judge treat all parties with respect and have the ability to make the parties feel that they have been heard and their views considered regardless of the outcome. I think that I meet that standard and, if confirmed, will work hard to continue to improve in the job.

- 5. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: If confirmed, I am fully committed to faithfully following Supreme Court and First Circuit precedents and giving them full force and effect regardless of whether I personally agree or disagree with such precedents.

- 6. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In a matter of first impression, I would begin with the plain language of a statute in question. If the language was unclear or ambiguous, I would review any case law from the

Supreme Court and First Circuit addressing analogous issues for guidance and then case law from other circuits addressing the same issue for its persuasive value. Finally, if the issue was still unresolved, I would look to the legislative history of the applicable statute.

7. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: If confirmed, I would apply binding precedent of the Supreme Court and the First Circuit regardless of my personal views.

8. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Statutes enacted by Congress are presumptively constitutional. “[R]espect for the decisions of a coordinate branch of Government demands [that federal courts] invalidate a congressional enactment only upon a plain showing that Congress has exceeded its constitutional bounds.” *United States v. Morrison*, 529 U.S. 598, 607 (2000). If confirmed, I would apply this standard.

9. **In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: No. If confirmed as a district judge, I would not rely on foreign law, or the views of the “world community,” in determining the meaning of the Constitution. I don’t believe that either of these is relevant to such a determination.

10. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: If confirmed, I will be fully committed to grounding my decisions in precedent and the text of the law rather than any underlying political ideology or motivation. This is how I have practiced law during my career on behalf of the U.S. government and individual defendants.

11. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: I am fully committed to putting aside any personal views that I might have and being fair to all who might appear before me. I believe that approaching cases in a fair and neutral way is critical to being a good judge under our system of law. During my career I have litigated effectively on behalf of both the U.S. government and individual defendants. I believe that this evidences an ability to put aside my personal views and to be fair when confronting a range of legal situations.

**12. If confirmed, how do you intend to manage your caseload?**

Response: If confirmed as a district judge, I would take a proactive approach to managing my caseload. I would, as an example, use the court's case management system and case management conferences to ensure that each case assigned to me has an efficient schedule in place, including a discovery schedule that focuses on the central issues of the case. I believe that justice delayed is justice denied and would make every effort to keep cases moving along consistent with the interests of justice and fairness.

**13. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: I believe that district court judges have an important role in controlling the pace and conduct of litigation. If confirmed, as referenced above, I would use the court's case management system and case management conferences to ensure that each case has an efficient schedule in place. Such a schedule would maximize efficiency, promote the prompt disposition of cases and also help keep litigation costs proportionate to the case. I would also encourage mediation or arbitration where appropriate. I would try to limit continuances and would commit to resolving motions in a reasonable time frame. Although the primary role of a judge is to ensure that cases are decided fairly and impartially, it is also important that they be decided efficiently to resolve the dispute that caused the lawsuit, but also to try to minimize the other harms that can be caused simply by the pendency of the litigation.

**14. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?**

Response: I understand the difference between being a judge and being an advocate and welcome the opportunity to play a different role in the courtroom if I am fortunate enough to be confirmed. In all cases that come before me, I will reach a decision based on the applicable statutory authority and First Circuit and Supreme Court precedent. I will begin by considering the submissions and arguments of the parties, but will also do independent research into the applicable statutes and precedent to ensure a full understanding of the issues. Although a significant part of my practice over the past nine years has involved civil work, I believe that the most difficult part of the transition will be managing complex civil litigation in areas of the law that are outside my experience.

**15. President Obama said that deciding the "truly difficult" cases requires applying "one's deepest values, one's core concerns, one's broader perspectives on how the world works, and the depth and breadth of one's empathy . . . the critical ingredient is supplied by what is in the judge's heart." Do you agree with this statement?**

Response: I believe that cases should be decided impartially, based on applicable law and precedent.

16. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.

a. In the penultimate sentence of the Court's opinion, Justice Kennedy wrote, "This opinion and its holding are confined to those lawful marriages."<sup>1</sup>

i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.

Response: Yes. I understand this statement to be part of the holding of the case.

ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes "lawful marriages"?

Response: I understand him to be referring to marriages that are legal under the laws of the relevant state.

iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?

Response: Yes.

iv. Are you committed to upholding this precedent?

Response: Yes.

b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, "By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States."<sup>2</sup>

i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.



Response: I understand this to be part of the analysis of the issue and part of the rationale for the holding.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes.

- c. **Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>**

- i. **Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes.

- d. **Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>**

- i. **Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes.

- e. **Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>**

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

<sup>5</sup> *Id.* (internal citations omitted).

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: I understand this to be part of the analysis of the issue and part of the rationale for the holding.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes.

- 17. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.**

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: No.

- b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

- 18. Please describe with particularity the process by which these questions were answered.**

Response: I received the questions on September 24, 2014. I reviewed the questions and the cases referenced in the questions and then I drafted my responses. After some discussions with an attorney from the Department of Justice, I finalized my responses and requested that the Department of Justice submit them on my behalf to the Senate Judiciary Committee.

- 19. Do these answers reflect your true and personal views?**

Response: Yes.

Allison Dale Burroughs

**Questions for the Record  
Senator Ted Cruz**

**Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.**

Response: I believe that decisions in a courtroom should be made based on a fair and neutral application of the law to the facts. I also believe that it is important that decisions be made in a timely manner and that litigants feel that their views have been heard and respected regardless of the outcome. To ensure this, judges must be open minded, willing to work in order to have a thorough understanding of the issues and committed to a process that is fair, faithful to the law and that reflects intellectual and ethical integrity. I am not sufficiently familiar with the philosophies of individual justices such that I am comfortable saying whose philosophy is most analogous with mine.

**Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?**

Response: In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court recognized that the public understanding of the Constitution at the time it was ratified was a relevant consideration when interpreting the Constitution. If confirmed, I will follow Supreme Court and First Circuit precedent on the issue.

**If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?**

Response: If confirmed, as a district court judge, there is no circumstance under which I would overrule precedent.

**Explain whether you agree that "State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power." *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).**

Response: If confirmed, I would be obligated to follow *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528 (1985) and other binding precedent regardless of whether I agreed or disagreed with it.

**Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?**

Response: The Supreme Court has stated that Congress can regulate “the use of channels of interstate commerce,” the “instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities” and “activities that substantially affect interstate commerce.” See *United States v. Morrison*, 529 U.S. 598, 608-610 (2000); *United States v. Lopez*, 514 U.S. 549 (1995). If confirmed, I would follow this and all other relevant Supreme Court and First Circuit precedent.

**What are the judicially enforceable limits on the President’s ability to issue executive orders or executive actions?**

Response: The President’s authority to issue executive orders or take executive action must come from an act of Congress or the Constitution itself. See *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952). If confirmed, I would follow the controlling precedent on this issue.

**When do you believe a right is “fundamental” for purposes of the substantive due process doctrine?**

Response: A right is fundamental when “‘deeply rooted in this nation’s history and traditions’, and ‘implicit in the concept of ordered liberty.’” See *Washington v. Glucksberg*, 521 U.S. 702, 720-721 (1997) (internal citations omitted). If confirmed, I would follow the controlling precedent on this issue.

**When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?**

Response: A classification is subject to heightened scrutiny under the Equal Protection Clause when it burdens a fundamental right or works to the disadvantage of a suspect class. See, e.g., *City of Cleburne, Texas v. Cleburne Living Center*, 473 U.S. 432, 439-441 (1985). Classifications that are given strict scrutiny include those based on race, national origin and alienage. Gender and illegitimacy are given intermediate scrutiny. *Id.* If confirmed, I would follow controlling precedent regarding the application and interpretation of the Equal Protection Clause.

**Do you “expect that [15] years from now, the use of racial preferences will no longer be necessary” in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).**

Response: If confirmed, my personal expectations regarding racial preferences in public higher education will play no role in my judicial decisions, and I will follow binding precedent on this issue, including *Grutter v. Bollinger*, 539 U.S. 306 (2003) and *Fisher v. University of Texas at Austin*, 133 S. Ct. 2411 (2013).

Senator Grassley  
Questions for the Record

Jeanne Davidson  
Nominee, Court of International Trade

1. **Please describe factors you will take into account as you consider the appropriate level of deference the Court of International Trade (CIT) should give to the U.S. International Trade Commission (ITC) on questions of statutory interpretation, particularly in appeals of determinations in antidumping and countervailing duty cases.**

Response: In resolving questions of statutory interpretation by the U.S. International Trade Commission (ITC), I would apply well-established principles of judicial review of administrative decisions established by the Supreme Court. First, I would consider whether the statute is clear and unambiguous on its face; if so, I would apply the letter of the law as enacted by Congress. Second, if the statute is ambiguous or not specific with regard to the matter in dispute, I would consider whether the ITC's interpretation is reasonable, even if other interpretations are plausible. Because Congress has delegated broad responsibilities to the ITC in administering the antidumping and countervailing duty laws, the ITC's interpretations are entitled to deference, as long as Congress has not spoken directly to the issue.

2. **Please describe your view on the appropriate level of deference the CIT should give to the ITC on questions of fact when presented with "Substantial Evidence" questions and challenges. What will be your approach to such challenges, and what factors would you consider in such cases?**

Response: By statute, the Court of International Trade reviews ITC factual determinations based upon the administrative record compiled during agency proceedings. These records usually are voluminous and detailed. My approach would be to review the administrative records and to sustain the ITC's determinations if they are supported by "substantial evidence." The Supreme Court in the context of administrative law generally, and the Court of Appeals for the Federal Circuit in review of ITC proceedings, have emphasized that "substantial evidence" means "more than a mere scintilla," but it does not mean that the preponderance of evidence supports the determination or that the record contains no evidence that could support a different result.

3. **Do you agree with the Federal Circuit's decision in *SKF USA, Inc. v. U.S. Customs and Border Protection*, 556 F.3d 1337 (2009) regarding the constitutionality of the Byrd Amendment to the Continued Dumping and Subsidy Offset Act (CDSOA) of 2000? What will be your approach in cases regulating commercial speech?**

Response: *SKF* is one of several decisions by the Court of Appeals for the Federal Circuit sustaining the constitutionality of the Byrd Amendment. The Supreme Court has denied petitions for writs of certiorari in these cases; the Federal Circuit's decisions are binding

precedent and must be followed by the Court of International Trade. My approach in cases regulating commercial speech would be to study and apply the relevant, binding Supreme Court precedent to the particular facts of each case.

**4. What is the most important attribute of a judge, and do you possess it?**

Response: Among the many important attributes of a judge – including objectivity, fairness, thoroughness, clarity – the most important is fidelity to the rule of law. A judge who adheres to the law as enacted by Congress and decided by the Supreme Court will resolve cases without bias or influence from irrelevant factors. Adhering to the rule of law promotes consistency in decision-making and fairness in treating litigants equally. I believe I possess these attributes.

**5. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: A judge should treat everyone with respect and should clearly express the court's expectations of the litigants and reasons for procedural and substantive decisions. A judge should strive to ensure that parties and lawyers are satisfied that the court has fully considered their arguments and evidence before making a decision. I believe that I have the appropriate temperament of a judge.

**6. In general, Supreme Court precedents are binding on all lower federal courts, and Federal Circuit precedents are binding on the Court of International Trade. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: Yes. A judge must follow binding precedent regardless of any personal views. If confirmed, I would follow binding precedent faithfully.

**7. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In a case of first impression, I would turn first to the text of the constitutional provision, statute, regulation, contract, or other legal instrument at issue. If the matter could not be resolved based upon the plain language, I would consider Supreme Court and other persuasive precedent in analogous cases. In determining the meaning of a statute, if the plain language was not dispositive, I would consider the legislative context, including prior enactments of the statute at issue, and authoritative legislative history, as guided by binding precedent.

8. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: Court of International Trade judges must follow precedent of the Supreme Court and the Court of Appeals for the Federal Circuit. I would apply that precedent faithfully, even if I believed the Court had erred.

9. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: It is appropriate for a federal court to declare a statute unconstitutional if this is the only conclusion possible consistent with binding precedent, the presumption that statutes are constitutional, and the doctrine of constitutional avoidance.

10. **In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: No. It is never proper for judges to rely on foreign law, or the views of the “world community,” in determining the meaning of the Constitution. The only possible exception of which I am aware concerns the right to trial by jury in civil cases, which the Supreme Court has explained is informed by English common law as it existed in 1791.

11. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: If confirmed, my decisions would reflect strict adherence to precedent and the rule of law, without regard to any political ideology or motivation. As a Department of Justice attorney for almost a quarter century, serving in five different Administrations, I have never allowed any personal political views to influence my approach to the law, or to particular cases. As a judge, if I am confirmed, consideration of political views would be completely inappropriate.

12. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: If confirmed, I will strive to listen to and consider fully all arguments and evidence presented by any litigant, without regard to my personal views. As a trial attorney in the public sector for many years, I understand the need for transparency, clarity, and consistency in the judicial system to engender confidence in the public that their claims and defenses will be considered fully and fairly.



- 13. Please describe your understanding of the workload of the Court of International Trade. If confirmed, how do you intend to manage your caseload?**

Response: The Court of International Trade possesses exclusive, nationwide jurisdiction to consider most disputes concerning customs and international trade matters. Cases filed in the Court of International Trade generally are large and complex, involving multiple parties and voluminous records. Some cases are resolved on a *de novo* basis, including extensive discovery, substantive motions practice, and trials. Other cases require review of an administrative determination supported by an enormous administrative record. Court of International Trade cases can be technical, requiring expert testimony, and can involve claims worth billions of dollars. Some cases raise constitutional issues; some concern entire industries; some require expedited consideration; and many require creative case management orders to reduce the costs and burdens of mass litigation. If confirmed, I would manage my caseload by reviewing cases immediately upon docketing, scheduling early conferences with counsel, and setting an appropriate schedule for resolving the dispute.

- 14. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Yes. Judges have an obligation to control their dockets to ensure that cases are resolved not only fully and fairly, but also expeditiously and without waste of resources. If confirmed, I would maintain control of the cases on my docket by adopting scheduling orders tailored to the particular case (after consulting closely with counsel), requiring periodic status conferences or reports, attempting to identify and narrow the issues in dispute, promptly resolving motions, and issuing final decisions as quickly as possible after fully considering the law and evidence. Based upon many years as a litigant and participant in bar activities, I am acutely aware of the public's desire for prompt adjudication and concern with the burgeoning costs of litigation.

- 15. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?**

Response: If confirmed, I will reach decisions in the cases that come before me by researching the law, including the Constitution, statutes, regulations, and judicial precedent, and examining the evidentiary record. To be sure, the role of a judge is very different from that of an advocate. It is the responsibility of the lawyers, not the court, to identify the arguments in support of each side's position and to marshal the facts to support the arguments. Accordingly, while I am confident that I will be able to make this transition, I will be mindful of the fundamental change in roles.

- 16. President Obama said that deciding the "truly difficult" cases requires applying "one's deepest values, one's core concerns, one's broader perspectives on how the**

**world works, and the depth and breadth of one's empathy . . . the critical ingredient is supplied by what is in the judge's heart." Do you agree with this statement?**

Response: A judge should be respectful, clear, and patient with all litigants, particularly those who are unfamiliar with the judicial system. Decisions must be made through strict adherence to the rule of law and the relevant record evidence.

- 17. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: "To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator's judicial selection committees".**

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: No.

- b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

- 18. Please describe with particularity the process by which these questions were answered.**

Response: I received these questions on September 24, 2014. I drafted responses and provided them to the Office of Legal Policy of the Department of Justice on October 9, 2014. Following a discussion with a representative of the Office of Legal Policy, I submitted the responses in their final form.

- 19. Do these answers reflect your true and personal views?**

Response: Yes.

Chairman Charles E. Grassley  
Additional Questions for the Record

Jeanne Davidson  
Nominee for U.S. Court of International Trade

**Fraud before a Federal Court/Obstruction of Federal Arson Investigation**

On December 1, 2014, U.S. Court of Federal Claims Judge Francis Allegra issued an opinion in which he remanded the case of *Dobyns v. U.S.* to the Circuit Court to determine if U.S. Department of Justice attorneys may have committed fraud on the court. Unsealed court documents also raise questions as to whether Judge Allegra has barred you from representing the government in this case. In his opinion, Judge Allegra stated that at least two instances of conduct by defendant's counsel could have constituted fraud on the court.

**Interference with re-opening the arson investigation:** First, he wrote that ATF Office of Chief Counsel Attorney Valerie Bacon attempted to convince ATF supervisors not to reopen an investigation into the arson of Agent Dobyns' residence because it would damage DOJ's defense in the civil case brought against DOJ by Mr. Dobyns. According to Judge Allegra:

On or about March 21, 2013, defendant's attorneys (and their supervisors) received emails from plaintiff's attorney complaining about the contacts made by Ms. Bacon to SAC Atteberry [SAC Atteberry testified that Ms. Bacon told him that if he reopened the investigation it would damage the Civil Division's defense of the lawsuit brought by Mr. Dobyns. Later, defendant's counsel acknowledged these contacts and admitted that Ms. Bacon made the same comments to another ATF agent from the same office.] It appears that defendant's attorneys did not respond to these emails or take any action in response thereto.<sup>1</sup>

Defendant's filings regarding this situation demonstrated not only that its counsel—including supervisors in the Civil Division, who received email communications on this topic from plaintiff's counsel in March of 2013—were aware of Ms. Bacon's actions prior to the trial in this case, but did nothing to apprise the court of her actions or of the potential that the integrity of these proceedings were at risk.<sup>2</sup> (emphasis added)

You were one of the DOJ attorneys on this case who received multiple e-mails from plaintiff's counsel on this issue.

**Failure to advise the court of a threat against an ATF Internal Affairs investigator:** Second, Judge Allegra's December 1, 2014, opinion describes an additional allegation of fraud on the court in which he states Mr. David Harrington, one of the defense counsels on record and someone you directly supervised during this case, failed to advise the court of a

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<sup>1</sup> *Dobyns v. United States*, U.S. Court of Federal Claims, Opinion dated December 1, 2014 (emphasis added).

<sup>2</sup> *Id.*

threat made against an ATF Internal Affairs investigator who testified in the case. Even more worrisome is Judge Allegra's statement that Mr. Harrington threatened the career of this investigator after he requested permission to bring the matter to the Court's attention:

...that defendant's attorneys may have committed other violations of the duty of candor, including a potential failure to advise the court that an ATF agent who testified in the case may have been threatened by another witness during the trial. ...defendant's counsel ordered the agent in question not to communicate the threat to the court and stated that there would be [career] repercussions if the agent did not follow counsel's instructions. This matter has since been referred to the Office of Professional Responsibility at the Justice Department.<sup>3</sup>

Judge Allegra also stated "the court finds that significant portions of the testimony of two witnesses [ATF ASAC George Gillett and ATF Agent Charles Higman] unworthy of belief." Based on Judge Allegra's opinion, the government's actions in this case raise serious concerns.

**Withholding tape recorded conversations in discovery:** In addition to these issues in Judge Allegra's order, the government has also admitted to withholding from pre-trial discovery two tape recorded, exculpatory phone calls between ATF arson investigators and Mr. Dobyns that would have damaged the government's case. Plaintiff's counsel was only made aware of these recordings, which were made when Mr. Dobyns was still being considered as a suspect in the arson of his own home, at a deposition of an ATF arson investigator.

- A. On March 21, 2013, you received an e-mail from Mr. Dobyns' attorney which alleged that ATF's Office of Chief Counsel had obstructed justice by attempting to stop the arson investigation from being reopened because it would damage the Civil Division's defense against Mr. Dobyns' civil case. Did you report these allegations to Judge Allegra, the Office of Personal Responsibility or the Inspector General? If not, please explain why not.

Response: I have no recollection of receiving the referenced email in this case, in which I served as the third-level supervisor prior to October 2013. While I was the Director of the National Courts Section, I supervised approximately 150 attorneys (including approximately 15 managers) responsible for an average of 5,000 open cases, including enormous commercial litigation matters and constitutional challenges to statutes enacted by Congress. Mr. Dobyns' attorney sent hundreds of lengthy email messages containing wide-ranging allegations, some of which I knew to be incorrect, to various Civil Division attorneys and officials during early 2013. Additionally, from mid-March until late May 2013, my time in the office was limited because I needed to care for my mother, who was released from the hospital in March 2013 in the final stages of congestive heart failure and liver cancer. I had to arrange for her to be placed in hospice, where she passed away two months later. During this same period, in addition to my own care-giving responsibilities for my mother, I was responsible for hosting and transporting multiple family members who came to town for final visits with my mother.

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<sup>3</sup> *Id*

- B. As Director of the Commercial Litigation Branch of the Civil Division did you have any contact with Valerie Bacon regarding Mr. Dobyns? If so, please describe your contacts in detail.**

Response: No.

- C. Did you know, prior to the trial, that Valerie Bacon “attempted to convince SAC Atteberry not to re-open the arson investigation” so as not to “damage our civil case”<sup>4</sup>? If so, how and when did you learn of Bacon’s conversation with Atteberry?**

Response: No.

- D. Do you believe Ms. Bacon’s actions described by Judge Allegra were appropriate? What steps did you take once you learned of them?**

Response: I believe that agencies should not decide to take action, or refrain from taking action, based upon any potential impact upon the government’s positions in pending litigation. If ATF’s decision whether to open an investigation was influenced by its perceived effect on the government’s positions in this or any other pending litigation matter, I would not consider that influence to be appropriate. Upon learning of the alleged actions by Ms. Bacon, I directed the assigned National Courts attorney to investigate immediately and report the facts to the Court.

- E. On February 8, 2013, you wrote a letter to Mr. Dobyns’ attorney, in response to his various email communications alleging improprieties by Mr. Harrington, stating that you were convinced that his complaints were without merit and that no inappropriate conduct had occurred.**

- a. What steps did you take to examine the allegations and on what did you base your determination that the complaint was without merit?**

Response: Respectfully, I first would like to note that, at the time I sent my letter of February 8, 2013, the main complaint advanced by Mr. Dobyns’s attorney concerned a matter unrelated to the allegations that form the basis for these additional questions for the record. The conclusions I reached in the letter (regarding a separate matter that has since been abandoned) were based upon discussions with Mr. Harrington, my familiarity with his excellent performance as a Senior Trial Counsel over many years, and consultations with others. Specifically, I consulted with the Assistant Director with immediate supervisory responsibility over the case, the Deputy Director with second-level supervisory responsibility, and with my immediate supervisor, the Deputy Assistant Attorney General of the Civil Division.

- b. Did you question Mr. Harrington as to whether he attempted to discourage an ATF investigator from bringing to the Court’s attention that he had been threatened by another witness?**

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<sup>4</sup> *Id.*

Response: No. I first learned of this allegation in September 2014, twenty months after my February 8, 2013 letter, when Judge Allegra issued an order about an *ex parte* telephone call. I left the National Courts Section in October 2013 to become the Director of the Office of Foreign Litigation. Because I no longer had responsibility or authority for National Courts matters in September 2014, I did not question Mr. Harrington about the allegation.

**c. Did you ask Mr. Harrington if he had threatened career repercussions against the investigator?**

Response: No. As noted above, this allegation arose twenty months after my February 8, 2013 letter and eleven months after I left the National Courts Section to become the Director of the Office of Foreign Litigation.

**d. Did you speak to Internal Affairs Investigator Christopher Trainor about these allegations?**

Response: No.

**e. Who else did you speak to about these allegations?**

Response: Because these allegations arose in September 2014, twenty months after my February 8, 2013 letter and almost a year after I left the National Courts Section, I did not speak to anyone about them in preparing my February 8, 2013 letter.

**f. What questions did you ask them?**

Response: I did not ask anyone questions about these allegations in preparing my February 8, 2013 letter because they were not made until September 2014, twenty months after my letter and almost a year after I left the National Courts Section.

**F. Mr. Dobyns' attorney alleges attorneys from your office, in a case you directly worked on, withheld from pre-trial discovery two secretly recorded conversations that were made by an ATF arson investigator at the time when Mr. Dobyns was being considered a suspect in the arson of his own home.**

**a. Are these allegations correct?**

Response: I had no involvement in this discovery matter, and it was not brought to my attention until after it was resolved. Upon hearing from Mr. Dobyns' attorney about the delayed production of two tape recordings, I looked into the matter and determined that the National Courts attorney had not withheld them intentionally. Rather, he had been unaware that they existed until preparing an ATF agent for deposition. Once the National Courts attorney became aware of their existence, he promptly produced them, agreed to extend the discovery deadline, and agreed to recall five witnesses for further

depositions, at the government's expense, to ensure that plaintiff was not prejudiced by the delay in production.

**b. If so, when did you become aware that the government failed to produce this evidence?**

Response: To the best of my recollection, I became aware of the delayed production in early 2013, after Mr. Dobyyns's attorney complained about the matter in email messages.

**c. Why were these phone calls not disclosed to plaintiff's counsel during discovery?**

Response: My understanding is that the tape recordings were produced to plaintiff's counsel during the discovery period.

**d. How did you become aware of these discovery violations and what actions, if any, did you take as a result?**

Response: Mr. Dobyyns's counsel complained about the delayed production of these tape recordings in email messages addressed to me and others in early 2013. I looked into the matter, and was assured that the National Courts attorney had not intentionally withheld the referenced tape recordings. Also, by that time, the tapes had been produced, deponents had been recalled, and the discovery period had been extended to compensate for the delay in production, to ensure that plaintiff was not prejudiced.

**G. When and how did you first become aware of Judge Allegra's December 1, 2014 order?**

Response: I believe that I became aware of the December 1, 2014 order sometime after returning from official travel to Israel, in my capacity as Director of the Office of Foreign Litigation, on December 12, 2014.

**H. What actions, if any, did you take after becoming aware of the order?**

Response: Because I no longer had any supervisory responsibility or authority for the case, I did not take any actions.

**I. Are you currently barred from appearing before the U.S. Court of Federal Claims in the matter of *Dobyyns v. United States*?**

Response: In December 2014, Judge Allegra issued an order, without explanation, barring seven attorneys, including me, from filing any documents in this case. I was surprised to be included in this list – I left the National Courts Section in October 2013, and my name, which was on every document filed by that section while I was the Director, had not appeared on any document in this case for over a year, and would not appear on any future filing regardless of the Court's order.

**J. Judge Allegra found that Mr. Gillett and Mr. Higman gave false testimony at trial.**

**a. What role did you play in preparing their testimony?**

Response: None.

**b. What steps, if any, did you take to verify their testimony?**

Response: None. I was unaware, prior to Judge Allegra's opinion issued ten months after my departure from the National Courts Section, that he considered these witnesses' testimony "unworthy of belief" or that there was any other reason to seek to verify their testimony. By that time, I no longer had any supervisory responsibility or authority for National Courts cases.



Senator Grassley  
Questions for the Record

Haywood S. Gilliam, Jr.  
Nominee, U.S. District Judge for the Northern District of California

1. Can you describe your role with the NAACP in the San Francisco case involving race quotas in high schools? What legal positions were at issue and what legal arguments were you presenting?

Response: My former law firm, McCutchen, Doyle, Brown & Enersen (now known as Bingham McCutchen), began serving as co-counsel for the San Francisco NAACP ("SFNAACP") in approximately 1979 in connection with a class-action desegregation lawsuit against the San Francisco Unified School District ("SFUSD") (the "SFNAACP Action"). The SFNAACP Action alleged that the SFUSD "engage[d] in discriminatory practices and maintain[ed] a segregated school system in the City and County of San Francisco" in violation of the federal and California constitutions. *San Francisco NAACP v. San Francisco Unified Sch. Dist.*, 576 F.Supp. 34, 36 (N.D. Cal. 1983). In 1983, the district court approved a consent decree to resolve the SFNAACP Action that included racial and ethnic guidelines regarding the assignment of students to the schools of the SFUSD.

In 1994, a group of students of Chinese descent filed a lawsuit, *Ho v. San Francisco Unified School District et al.* (the "*Ho* Action"), challenging the student assignment plan under the Equal Protection Clause and seeking dissolution of the consent decree. *See San Francisco NAACP v. San Francisco Unified Sch. Dist.*, 59 F.Supp.2d 1021, 1024 (N.D. Cal. 1999). The SFNAACP was added as a defendant in the *Ho* Action in January 1995.

I joined McCutchen as an associate in November 1995, and was asked to assist lead counsel in representing the interests of our client SFNAACP. In 1996, the *Ho* plaintiffs moved for summary judgment. The SFNAACP opposed the motion for summary judgment on the basis that disputed issues of fact existed regarding whether a compelling state interest justified the provisions of the consent decree and whether the decree was narrowly tailored to achieve that interest. I assisted in preparing the SFNAACP's opposition brief, and argued the SFNAACP's position at the hearing on the motion for summary judgment. The district court denied the motion for summary judgment, finding that disputed issues of fact existed as to each of these factors. *Ho v. San Francisco Unified Sch. Dist.*, 965 F.Supp. 1316, 1323-26 (N.D. Cal. 1997).

The *Ho* plaintiffs appealed, and I assisted in preparing the SFNAACP's appellate brief, and argued the SFNAACP's position at oral argument. The Ninth Circuit dismissed the appeal for lack of jurisdiction and remanded the case. *Ho v. San Francisco Unified Sch. Dist.*, 147 F.3d 854 (9th Cir. 1998). Following remand (and after I left McCutchen in November 1998 to take a position at the United States Attorney's Office), the case ultimately settled.

**2. How would you approach a qui tam case if it came before your court, if you are confirmed?**

Response: Title 31, Section 3730 of the United States Code describes a number of specific responsibilities that district judges have in matters brought under the *qui tam* provisions of the False Claims Act. If confirmed, I would follow the procedures set out in section 3730, as well as any applicable Supreme Court and Ninth Circuit precedent. In all other regards, I would approach a *qui tam* case in the same manner that I would approach any civil case before me: I would come to the matter without prejudice, identify the controlling legal authority, and apply it neutrally to the facts of the case.

**3. In 1986, I authored an update of the Federal False Claims Act which reinvigorated the qui tam provisions and has helped recover over \$30 billion in taxpayer dollars.**

**a. Could you please briefly describe your experience with the False Claims Act, in general, and specifically any work you did with qui tam whistleblowers?**

Response: I have represented clients in a number of False Claims Act matters, assisting them in responding to requests for documents and witnesses, and discussing substantive and procedural issues with opposing counsel. In most of these cases, the clients have been companies and organizations in various industries who have been involved in investigations by the Civil Division of the Department of Justice. The majority of these investigations have stemmed from underlying *qui tam* lawsuits brought by relators, with the remainder involving investigations initiated independently by the Department of Justice. In two instances, a *qui tam* relator elected to pursue a False Claims Act action against a client after the Department of Justice declined to intervene, and I am part of the teams defending these cases.

**b. What is your view regarding the constitutionality of the False Claims Act and its qui tam provisions?**

Response: In *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, 529 U.S. 765, 778 & n.8 (2000), the Supreme Court found “no room for doubt that a *qui tam* relator under the [False Claims Act] has Article III standing,” but noted that “[i]n so concluding, we express no view on the question whether *qui tam* suits violate Article II, in particular the Appointments Clause of § 2 and the ‘take Care’ Clause of § 3.” In *United States ex rel. Kelly v. Boeing Co.*, 9 F.3d 743, 760 (9th Cir. 1993), the Ninth Circuit “conclude[d] that the *qui tam* provisions of the False Claims Act do not conflict with Article III of the Constitution, nor violate the principle of separation of powers, the Appointments Clause, or the Due Process Clause.”

More generally, a statute passed by Congress is presumed to be constitutional. A federal court should only reach the question of a statute’s constitutionality if the case cannot be resolved on other grounds. If it is necessary to reach the constitutional question, a court may only declare a statute unconstitutional if the statute clearly conflicts with Supreme Court precedent interpreting the Constitution, or if Congress

clearly exceeded its constitutional authority. If confirmed and called upon to address this question, I would apply the above precedent and principles, as well as all other applicable Supreme Court and Ninth Circuit precedent.

- 4. What factors should a judge consider when determining whether or not to award a portion of the government's recovery to qui tam whistleblowers, or determining the amount to award?**

Response: Section 3730 of Title 31 of the United States Code sets forth the principles governing when a *qui tam* relator is entitled to receive an award, and the method of calculating the percentage range of the award. See *United States ex rel. Sharma v. Univ. of Southern Calif.*, 217 F.3d 1141 (9th Cir. 2000) (reviewing district court's application of 31 U.S.C. § 3730). If confirmed, I would apply the factors in section 3730, as well as any applicable Supreme Court and Ninth Circuit precedent, in deciding these issues.

- 5. If confirmed, will you ensure that qui tam whistleblowers are afforded all the rights and privileges authorized by the False Claims Act?**

Response: Yes.

- 6. What is the most important attribute of a judge, and do you possess it?**

Response: I believe that the most important attribute of a judge is the commitment to faithfully and impartially apply the law in every case, without regard to the type of matter or the identity of the parties. I do possess this attribute.

- 7. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: In my view, the most important element of judicial temperament is treating every person who comes into the courtroom, whether they are litigants, counsel, witnesses, jurors or court staff, with evenhandedness, respect, and courtesy. The judge also must ensure that all parties in a case receive the opportunity to have their arguments heard and fairly considered, and should then render decisions in a timely manner. To carry out these responsibilities, a judge should maintain a calm yet firm demeanor, be an attentive and careful listener and work diligently to promptly reach a decision. I do meet these standards, and am deeply committed to upholding these principles.

- 8. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: If confirmed as a district judge, I would be fully committed to following the precedents of higher courts faithfully and giving them full force and effect, without regard to whether I personally agreed or disagreed with those precedents.

9. **At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In a case of first impression, I would look first to the text of the statute or regulatory provision at issue. I anticipate that in most cases, applying the plain language of the provision to the facts of the case would permit me to resolve the matter. If the language of the provision was ambiguous or unclear so as to require additional analysis, I would next look to Supreme Court and Ninth Circuit precedent involving analogous circumstances. If no such precedent existed, I would consider persuasive authorities from other circuits and district courts. Finally, where appropriate and as permitted by binding precedent, I would examine the history of the applicable provision.

10. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: I would faithfully apply controlling precedent of the Supreme Court and the Ninth Circuit Court of Appeals, whether or not I believed the court's ruling was in error.

11. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: A statute passed by Congress is presumed to be constitutional. A federal court should only reach the question of a statute's constitutionality if the case cannot be resolved on other grounds. If it is necessary to reach the constitutional question, the court may only declare a statute unconstitutional if the statute clearly conflicts with Supreme Court precedent interpreting the Constitution, or if Congress clearly exceeded its constitutional authority.

12. **In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community", in determining the meaning of the Constitution? Please explain.**

Response: No.

13. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: I believe that there is no greater honor, or greater responsibility, than serving as a district judge. The citizens of our country entrust federal judges to dispense equal justice under the law, and to decide cases by applying controlling precedent to the facts of the

cases before them, without regard to any other considerations. I had the privilege of beginning my career as a district court law clerk to the Honorable Thelton E. Henderson, and I have served as a federal prosecutor, a defense lawyer and counsel for clients in a range of civil matters. I have never viewed my legal practice as ideological, and I can assure the Committee that if confirmed as a district judge, I would base my decisions solely on the facts of each case and the applicable precedent, without regard to any political ideology or motivation.

- 14. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: Over the course of my career as a prosecutor and defense counsel, I believe that I have earned a reputation with the bench and bar as an advocate who takes well-reasoned positions, gives thoughtful and respectful consideration to the positions of other parties, and assesses the strengths and weaknesses of a case based on the facts and the law rather than my personal views. I can assure the Committee and future litigants that if confirmed as a district judge, I would be fully committed to treating everyone who appeared before me fairly, and that any personal views would not interfere in any way with my ability to neutrally apply the law.

- 15. If confirmed, how do you intend to manage your caseload?**

Response: If confirmed, I plan to manage my caseload by scheduling case management conferences shortly after matters are filed, setting a reasonable schedule as early as possible in a matter, directing the parties to meet and confer to resolve and narrow issues to the fullest extent possible without court intervention, and remaining actively engaged over the course of a matter to ensure steady progress toward resolution.

- 16. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: I do believe that judges have an important role in controlling the pace and conduct of litigation. If confirmed, I would take the steps described above to control my docket. In addition, I would encourage counsel appearing before me to adhere to the highest standards of civility and professionalism while representing their clients, consistent with the Northern District of California's Guidelines for Professional Conduct.

- 17. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?**

Response: If confirmed, I would decide cases by applying applicable Supreme Court and Ninth Circuit precedent to the facts before me. I understand that the judge's role differs from the advocate's role, and I would not have any difficulty neutrally and impartially deciding cases. In making this transition, I understand that I will need to learn areas of

substantive law beyond those that I have handled in my practice, and I am committed to working hard to familiarize myself with these areas of the law.

- 18. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: I am not aware of the context of this quote, but I believe that all cases can be decided by applying controlling precedent to the facts of the case. I also believe that it is incumbent on a judge to treat all parties fairly and respectfully, and to be committed to hearing and understanding each party’s position before arriving at a ruling.

- 19. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.**

- a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>**

- i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.**

Response: Yes.

- ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?**

Response: I understand this phrase to refer to same-sex marriages made lawful by a State.

- iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?**

Response: Yes.

- iv. Are you committed to upholding this precedent?**

Response: Yes. If confirmed I would be committed to following this and all other Supreme Court precedent.

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

**b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>**

**i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

**ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If confirmed I would be committed to following this and all other Supreme Court precedent.

**c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>**

**i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

**ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If confirmed I would be committed to following this and all other Supreme Court precedent.

**d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>**

**i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

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<sup>2</sup> *Id.* 2689-2690.

<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

Response: Yes.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If confirmed I would be committed to following this and all other Supreme Court precedent.

- e. **Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>**

- i. **Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If confirmed I would be committed to following this and all other Supreme Court precedent.

- 20. **According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.**

- a. **Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: No.

- b. **Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes,**

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<sup>5</sup> *Id.* (internal citations omitted).



**please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

- 21. Please describe with particularity the process by which these questions were answered.**

Response: I received these questions from the Office of Legal Policy at the Department of Justice on September 24, 2014. I reviewed the questions and personally prepared answers to them. I submitted my answers to the Office of Legal Policy and received comments, after which I finalized my responses. I then authorized the Office of Legal Policy to submit these responses on my behalf.

- 22. Do these answers reflect your true and personal views?**

Response: Yes.

**Questions for the Record  
Senator Ted Cruz**

**Haywood S. Gilliam, Jr.  
Nominee: United States District Court for the Northern District of California**

**Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.**

Response: As a district judge, I would approach every case before me without prejudice, identify controlling precedent and neutrally apply it, and resolve issues before me on the narrowest basis possible. I also believe that it is critical for a judge to treat all participants in the judicial system, including litigants, counsel, jurors, witnesses and court staff, with respect and courtesy, and to ensure that all parties in a case have the opportunity to have their arguments heard and considered fully and fairly. Because I have not studied the judicial philosophies of the members of the Warren, Burger and Rehnquist Courts, I cannot say which of the Justices' philosophies is most analogous to the approach I would take if confirmed, as described above.

**Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?**

Response: The Supreme Court has used originalism to interpret the Constitution in certain instances. For example, in *District of Columbia v. Heller*, 554 U.S. 570, 576-77 (2008), the Supreme Court considered the meaning "known to ordinary citizens in the founding generation" in interpreting the Second Amendment. If confirmed, I would follow this and all applicable Supreme Court and Ninth Circuit precedent in interpreting the Constitution.

**If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?**

Response: If confirmed as a district judge, I would not have the power to overrule precedent under any circumstances.

**Explain whether you agree that "State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power." *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).**

Response: If confirmed, I would be bound to follow *Garcia* and all other precedent of the Supreme Court.

**Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?**

Response: In *United States v. Lopez*, 514 U.S. 549, 558 (1995), the Supreme Court described “three broad categories of activity that Congress may regulate under its commerce power.” Under *Lopez*, Congress (1) “may regulate the use of the channels of interstate commerce”; (2) may “regulate and protect the instrumentalities of interstate commerce, or persons and things in interstate commerce”; and (3) may “regulate those activities having a substantial relation to interstate commerce.” *Id.* at 558-59. The Court has held that “when a general regulatory statute bears a substantial relation to commerce, the *de minimis* character of individual instances arising under that statute is of no consequence.” *Gonzales v. Raich*, 545 U.S. 1, 17 (internal quotations and citations omitted). Justice Scalia’s concurrence in *Raich* posited that “Congress may regulate even noneconomic local activity if that regulation is a necessary part of a more general regulation of interstate commerce.” *Id.* at 37 (Scalia, J., concurring). If confirmed, I would follow this and all other applicable Supreme Court and Ninth Circuit precedent in cases involving the Commerce Clause.

**What are the judicially enforceable limits on the President’s ability to issue executive orders or executive actions?**

Response: In *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952), the Supreme Court held that the President’s authority to issue an executive order or take executive action “must stem from either an act of Congress or from the Constitution itself.” If confirmed, I would follow this and all other applicable Supreme Court and Ninth Circuit precedent in cases involving this issue.

**When do you believe a right is “fundamental” for purposes of the substantive due process doctrine?**

Response: The Supreme Court has found rights to be “fundamental” for purposes of the substantive due process doctrine when they are “objectively, deeply rooted in this Nation’s history and tradition, and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed.” *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) (internal citations and quotations omitted). If confirmed, I would follow this and all other applicable Supreme Court and Ninth Circuit precedent in cases involving this issue.

**When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?**

Response: The Supreme Court has applied heightened scrutiny under the Equal Protection Clause to classifications based on factors such as race, alienage, national origin, gender or illegitimacy. See *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 440-41 (1985). If confirmed, I would follow this and all other applicable Supreme Court and Ninth Circuit precedent in deciding cases involving this issue.

**Do you “expect that [15] years from now, the use of racial preferences will no longer be necessary” in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).**

Response: The Supreme Court has addressed the use of racial preferences in public higher education in cases such as *Grutter* and *Fisher v. Univ. of Texas at Austin*, 133 S. Ct. 2411 (2013).

If confirmed, I would follow this and all other applicable Supreme Court and Ninth Circuit precedent in cases involving this issue, without regard to any personal views or expectations I might have.

**Senator Grassley  
Questions for the Record**

**Amit Mehta  
Nominee, U.S. District Judge for the District of Columbia**

**1. What is the most important attribute of a judge, and do you possess it?**

Response: The most important attribute of a judge is to faithfully and impartially apply the law to the facts of the case before him or her, irrespective of the judge's personal views. I believe that I possess that attribute and, if confirmed, would faithfully adhere to that standard throughout my tenure.

**2. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: A judge must be impartial, willing to listen, hardworking, and maintain an open mind with regard to each and every case that comes before him or her. A judge must also exhibit respect for all parties and counsel, as well as employees of the judicial branch, who are essential to the court's proper and efficient functioning. I believe that I possess these qualities and, if confirmed, would strive each day to live up to those standards.

**3. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: A district court judge's fealty to applying binding precedent is essential to the proper functioning of the judiciary and to instilling public trust in the judiciary. If confirmed, I will faithfully follow binding Supreme Court and D.C. Circuit precedent to the cases that come before me, irrespective of whether I personally agree or disagree with the precedent.

**4. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In addressing a case of first impression, I would first consider the plain meaning of the constitutional provision, statute, regulation or rule at issue. If the text's meaning was unclear, I would be guided by Supreme Court and D.C. Circuit precedent in analogous cases. In the event there is no analogous precedent, I would consult cases from other circuit courts as persuasive authority and, finally, where instructed by Supreme Court or D.C. Circuit precedent, would consider legislative history and intent.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: I would in all cases apply binding precedent of the Supreme Court and the D.C. Circuit, irrespective of any personal opinion I may hold concerning such precedent.

6. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: The Supreme Court has stated that Acts of Congress are due a "strong presumption" of constitutionality, *see United States v. Watson*, 423 U.S. 411, 416 (1976); therefore, a court should declare a statute enacted by Congress unconstitutional in only limited circumstances. Such limited circumstances might include when a statute clearly violates a constitutional provision or when Congress has exceeded its authority granted under Article I of the Constitution. A district court judge should declare a statute unconstitutional only when that result is compelled by binding Supreme Court and circuit court precedent, and only when doing so is required to resolve a case or controversy presented.

7. **In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community", in determining the meaning of the Constitution? Please explain.**

Response: Unless compelled by Supreme Court precedent, foreign law or views of the "world community" cannot be relied upon to determine the meaning of the United States Constitution.

8. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: Political ideology or motivation has no place in the decision making of a judge. If I am confirmed, I assure the Committee that I will approach each case with an open mind and base my decisions solely on applying the controlling law to the facts before me.

9. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: Throughout my career, I have provided zealous representation to companies and individuals in criminal and civil matters, without regard to my personal views. In particular, having served as a counsel to indigent criminal defendants in the District of Columbia, I am acutely aware of the importance of equal treatment under the law. If I am confirmed, I assure the Committee that I will put aside my personal views and decide

matters that come before me based solely upon the controlling law as applied to the facts and I will be fair to all who appear before me.

**10. If confirmed, how do you intend to manage your caseload?**

Response: It is incumbent upon federal district court judges to manage their caseloads in a manner that promotes efficiency and confidence in the judicial system. If confirmed, I would promptly hold a scheduling conference with the parties to set reasonable deadlines for the completion of discovery and other disclosure obligations, as well as for motions practice. I would hold the parties to those deadlines, unless reasonable extensions are requested and appropriate. I would strive to decide all motions and other matters pending before the court in an efficient and timely manner, especially dispositive motions.

**11. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: I believe that judges play a critical role in controlling the pace and conduct of litigation. If confirmed, I would control my docket by promptly holding a scheduling conference with the parties to set deadlines for motions, discovery, and trial. I would hold the parties to those deadlines, unless reasonable extensions are requested and appropriate. Additionally, in criminal cases, I would enforce the guarantees of the Speedy Trial Act.

**12. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?**

Response: I am very cognizant that the role of a judge is fundamentally different than that of an advocate. If confirmed as a district court judge, I will become a judicial officer who has sworn to uphold and apply the law. In making decisions in cases that come before me, I will look first and foremost to the plain text of the pertinent constitutional provision, statute, regulation or rule, as well as any controlling Supreme Court and D.C. Circuit precedent. If the plain text or controlling precedent does not resolve the issue, then I would look to Supreme Court and D.C. Circuit precedent on analogous issues; persuasive authority from other circuits; and, finally, where instructed by Supreme Court or D.C. Circuit precedent, legislative history and intent. I expect that the transition from advocate to judge will present many challenges. For example, there are areas of the law with which I have not had prior experience, such as administrative law and employee benefits law, and I will have to learn them through a rigorous study of the pertinent statutes and case law.

**13. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: A federal district court judge must in all cases be guided by and apply controlling Supreme Court and circuit court precedent, regardless of the judge's personal views or perspectives.

14. **Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.**

- a. **In the penultimate sentence of the Court's opinion, Justice Kennedy wrote, "This opinion and its holding are confined to those lawful marriages."<sup>1</sup>**

- i. **Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.**

Response: Yes.

- ii. **What is your understanding of the set of marriages to which Justice Kennedy refers when he writes "lawful marriages"?**

Response: Marriages recognized as legal under state law.

- iii. **Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?**

Response: Yes.

- iv. **Are you committed to upholding this precedent?**

Response: Yes.

- b. **Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, "By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States."<sup>2</sup>**

- i. **Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower**

<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.



**courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court's opinion full force and effect?**

Response: Yes.

- c. **Justice Kennedy also wrote, "The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens."<sup>3</sup>**

- i. **Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court's opinion full force and effect?**

Response: Yes.

- d. **Justice Kennedy wrote, "The definition of marriage is the foundation of the State's broader authority to regulate the subject of domestic relations with respect to the '[p]rotection of offspring, property interests, and the enforcement of marital responsibilities."<sup>4</sup>**

- i. **Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

- ii. **Will you commit to give this portion of the Court's opinion full force and effect?**

Response: Yes.

- e. **Justice Kennedy wrote, "The significance of state responsibilities for the definition and regulation of marriage dates to the Nation's beginning; for 'when the Constitution was adopted the common understanding was that the domestic**

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

relations of husband and wife and parent and child were matters reserved to the States.”<sup>5</sup>

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes.

15. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.

Response: No.

- b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.

Response: No.

16. Please describe with particularity the process by which these questions were answered.

Response: I received the questions on September 24, 2014. I personally drafted my responses on September 29 and 30, 2014. On October 3, 2014, I forwarded my draft responses to the Department of Justice Office of Legal Policy for review and comment. I then finalized my answers and authorized their submission on my behalf.

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<sup>5</sup> *Id.* (internal citations omitted).

**17. Do these answers reflect your true and personal views?**

Response: Yes.

Questions for the Record  
Senator Ted Cruz

Amit P. Mehta  
Nominee, United States District Court for the District of Columbia

**Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.**

Response: I do not identify with the judicial philosophy of any particular Supreme Court Justice, past or present. I possess the abiding belief that judges should come to each case with an open mind, set aside their personal views, and decide the matters before them based solely on the controlling law as applied to the facts. If I were to be confirmed, I would devote myself to implementing that belief in every matter that comes before me.

**Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?**

Response: To interpret the Constitution, the Supreme Court has looked to founding-era documents and how the public at the time understood the terms contained in those documents. See, e.g., *District of Columbia v. Heller*, 554 U.S. 570 (2008). If confirmed, I would follow that and all other binding precedent in matters that call upon me to interpret the Constitution.

**If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?**

Response: If confirmed as a district court judge, I would not possess the authority to, nor would I, overrule precedent under any circumstance.

**Explain whether you agree that "State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power." *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).**

Response: If confirmed, and if presented with a matter that required me to consider the limitations on federal power in relation to state sovereign interests, I would follow the binding decision in *Garcia*, as well as any other relevant Supreme Court and D.C. Circuit precedent, such as *New York v. United States*, 505 U.S. 144, 157 (1992).

**Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?**

Response: The Supreme Court has stated that a critical factor in determining the limits of Congress' Commerce Clause power is whether the activity sought to be regulated is economic or

non-economic activity. See, e.g., *United States v. Morrison*, 529 U.S. 598, 610 (2000) (“But a fair reading of [*United States v. Lopez*, 514 U.S. 549 (1995)] shows that the noneconomic, criminal nature of the conduct at issue was central to our decision in that case.”); *Gonzales v. Raich*, 545 U.S. 1, 25 (2005) (“Unlike those at issue in *Lopez* and *Morrison*, the activities regulated by the [Controlled Substances Act] are quintessentially economic.”). If confirmed, and if presented with a matter that required me to consider the limits of Congress’ Commerce Clause power, I would follow the binding decisions in *Lopez*, *Morrison*, and *Raich*, as well as any other relevant Supreme Court and D.C. Circuit precedent.

**What are the judicially enforceable limits on the President’s ability to issue executive orders or executive actions?**

Response: The President’s ability to issue executive orders must “stem either from an act of Congress or from the Constitution itself.” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952). Justice Jackson’s “familiar tripartite scheme” articulated in *Youngstown* “provides the accepted framework for evaluating executive action.” *Medellin v. Texas*, 128 S. Ct. 1346, 1368 (2008). Under that framework, presidential authority is at its “maximum” when done “pursuant to an express or implied authorization of Congress.” *Youngstown*, 343 U.S. at 635 (Jackson, J., concurring). At the other end of the spectrum, presidential power is “at its lowest ebb” when the President “takes measures incompatible with the expressed or implied will of Congress.” *Id.* at 637. In between those two poles, there is a “zone of twilight” in which the President may have “concurrent authority” with Congress, or “in which distribution is uncertain.” *Id.* If confirmed, and if presented with a matter that required me to consider the limits of presidential authority, I would follow the binding decisions of *Youngstown* and *Medellin*, as well as any other relevant Supreme Court and D.C. Circuit precedent.

**When do you believe a right is “fundamental” for purposes of the substantive due process doctrine?**

Response: The Supreme Court in *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997), stated that “we have regularly observed that the Due Process Clause specially protects those fundamental rights and liberties which are, objectively, ‘deeply rooted in this Nation’s history and tradition,’ and ‘implicit in the concept of ordered liberty,’ such that ‘neither liberty nor justice would exist if they were sacrificed.’” (Citations omitted.) In addition to the specific freedoms protected in the Bill of Rights, the Court identified fundamental rights protected by the Due Process Clause to include, among others, the right to marry, to have children, and to marital privacy. *Id.* at 720. The Court, however, cautioned that it has “‘always been reluctant to expand the concept of substantive due process because guideposts for responsible decisionmaking in this unchartered area are scarce and open-ended.’” *Id.* (quoting *Collins v. City of Harker Heights*, 503 U.S. 115, 125 (1992)). If confirmed, and if presented with a matter that required me to determine whether a right is “fundamental” for purposes of the substantive due process doctrine, I would follow the binding precedent of *Glucksberg* and *Collins*, as well as any other relevant Supreme Court and D.C. Circuit precedent.

**When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?**

Response: The Equal Protection Clause is “essentially a direction that all persons similarly situated should be treated alike.” *City of Cleburne v. Cleburne Living Ctr., Inc.*, 473 U.S. 432, 439 (1985). Although the general rule is that “legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest,” *id.* at 440, that rule gives way “when a statute classifies by race, alienage, or national origin.” Such classifications are subject to “strict scrutiny and will be sustained only if they are suitably tailored to serve a compelling state interest.” *Id.* Additionally, heightened scrutiny is warranted for classifications based on gender or illegitimacy, and a statute that so classifies will fail “unless it is substantially related to a sufficiently important governmental interest.” *Id.* at 441. If confirmed, and if presented with a matter that required me to determine whether a classification is subjected to heightened scrutiny, I would follow the binding precedent of *City of Cleburne*, as well as any other relevant Supreme Court and D.C. Circuit precedent.

**Do you “expect that [15] years from now, the use of racial preferences will no longer be necessary” in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).**

Response: If confirmed, and presented with a matter that required me to consider the use of racial preferences in public higher education, I would follow the binding decisions in *Grutter* and *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013), as well as any other relevant Supreme Court and D.C. Circuit precedent, regardless of my personal expectations.



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**VIA EMAIL AND FIRST-CLASS MAIL**

August 4, 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: Nomination of Allison Dale Burroughs to the United States  
District Court for the District of Massachusetts

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Allison Dale Burroughs who has been nominated for a position on the United States District Court for the District of Massachusetts. A majority of the Committee is of the opinion that Ms. Burroughs is Qualified for this position and minority of the Committee is of the opinion that Ms. Burroughs is Not Qualified for this position.

A copy of this letter has been provided to Ms. Burroughs.

Sincerely,

Bettina B. Plevan  
Chair

BBP:ddc

CC: Allison Dale Burroughs, Esq. (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via email)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)

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August 4, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on August 4, 2014.





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**VIA EMAIL AND FIRST-CLASS MAIL**

August 19, 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: *Nomination of Jeanne Evelyn Davidson to the United States  
Court of International Trade*

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Jeanne Evelyn Davidson who has been nominated for a position on the United States Court of International Trade. The Committee is of the opinion that Ms. Davidson is Unanimously Well Qualified for this position.

A copy of this letter has been provided to Ms. Davidson.

Sincerely,

Bettina B. Plevan  
Chair

BBP:ddc

cc: Jeanne Evelyn Davidson, Esq. (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via email)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)

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The Honorable Patrick J. Leahy, Chairman  
August 19, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on August 19, 2014.



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**VIA EMAIL AND FIRST-CLASS MAIL**

August 19, 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: Nomination of Haywood Stirling Gilliam, Jr., to the United States  
District Court for the Northern District of California

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Haywood Stirling Gilliam, Jr., who has been nominated for a position on the United States District Court for the Northern District of California. The Committee is of the opinion that Mr. Gilliam is Substantial Majority Well Qualified, Minority Qualified, for this position, with one Recusal.

A copy of this letter has been provided to Mr. Gilliam.

Sincerely,

Bettina B. Plevan  
Chair

BBP:ddc

cc: Haywood Stirling Gilliam, Jr., Esq. (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via email)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)

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The Honorable Patrick J. Leahy, Chairman  
August 19, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on August 19, 2014.



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**VIA EMAIL AND FIRST-CLASS MAIL**

August 4, 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Rc: **Nomination of Amit Priyavadan Mehta to the United States  
District Court for the District of Columbia**

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Amit Priyavadan Mehta who has been nominated for a position on the United States District Court for the District of Columbia. The Committee is of the opinion that Mr. Mehta is Unanimously Qualified for this position.

A copy of this letter has been provided to Mr. Mehta.

Sincerely,

Bettina B. Plevan  
Chair

BBP:ddc

cc: Amit Priyavadan Mehta, Esq. (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via email)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)

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August 4, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on August 4, 2014.

**NOMINATIONS OF HON. JOAN MARIE AZRACK,  
NOMINEE TO BE DISTRICT JUDGE FOR  
THE EASTERN DISTRICT OF NEW YORK;  
LORETTA COPELAND BIGGS, NOMINEE TO  
BE DISTRICT JUDGE FOR THE MIDDLE DIS-  
TRICT OF NORTH CAROLINA; ELIZABETH K.  
DILLON, NOMINEE TO BE DISTRICT JUDGE  
FOR THE WESTERN DISTRICT OF VIRGINIA;  
AND MICHAEL P. BOTTICELLI, NOMINEE TO  
BE THE DIRECTOR OF NATIONAL DRUG  
CONTROL POLICY**

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**THURSDAY, NOVEMBER 13, 2014**

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 12:21 p.m., in Room SD-226, Dirksen Senate Office Building, Hon. Mazie Hirono, presiding.

Present: Senator Grassley.

**OPENING STATEMENT OF HON. MAZIE HIRONO,  
A U.S. SENATOR FROM THE STATE OF HAWAII**

Senator HIRONO. The hearing of the Judiciary Committee will now come to order. I do apologize to our nominees and Senator Burr, Senator Grassley and others for this delay. I thank you very much for your patience.

Senator Burr, we can start with you. I will forgo my opening statement.

[The prepared statement of Senator Hirono appears as a submission for the record.]

**PRESENTATION OF LORETTA COPELAND BIGGS, NOMINEE TO  
BE DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF NORTH  
CAROLINA, BY HON. RICHARD BURR, A U.S. SENATOR FROM  
THE STATE OF NORTH CAROLINA**

Senator BURR. Chairman Hirono, thank you very much and let me just thank the Committee for holding this hearing with these nominees.

Madam Chairman, I am here to support and to voice a strong support for Judge Loretta Biggs. She is a North Carolinian with

the professional integrity and legal experience that makes her an outstanding candidate to serve on the Federal bench. I feel confident that the community will come to the same conclusion after reviewing all of the documentation about this exceptional nominee.

Not only is she exceptional from the standpoint of her service on the bench and in law, she has been active in her community and I know her active role has made the Piedmont Triad of North Carolina a much better place to live. Countless others have benefited from her wealth of legal knowledge. She has also served as an adjunct professor at Wake Forest University Law School.

In this regard, I find it reassuring to know her legal knowledge merged with the academic genius usually attributed to Demon Deacons. Without doubt, North Carolina is better off because of this.

I would like to highlight, very quickly, a few points of Judge Biggs' resume which I believe signal a unique and highly accomplished career and make her an excellent candidate for the Federal bench.

She served as a Federal and State prosecutor. She is admitted to practice in all North Carolina courts, the Supreme Court, the U.S. Court of Appeals and the U.S. District Courts. She has significant experience in both public and private practice, from the general counsel's office of a fortune 500 company to the Assistant D.A. position in my home county of, Forsyth County.

She began her service as a judge in 1987 when she was appointed to the 21st Judicial District Bench in North Carolina. She served in the U.S. Attorney's Office for the Middle District of North Carolina where she coordinated crime prevention efforts. While there she helped develop the model for Juvenile Crime Prevention Councils that are currently being used statewide by the North Carolina Department of Safety to reduce and prevent juvenile crime.

In 2001, she was appointed to serve on the North Carolina Court of Appeals. In addition to her professional achievements, she has also received numerous awards for her service and commitment to the community. These include the YMCA Public Leadership Award, the Visionworks Humanitarian Award, the Dream Catchers Award, the Tar Heel Girl Scouts Council, the Community Service Award, Family Services of Forsyth County, the Strong and Smart and Bold Award, Salvation Army Girl's Club, Woman of the Year in the Winston-Salem Chronicle and Best Choice Center Wall of Fame.

Madam Chairman, let me reiterate my support for Loretta Biggs as a nominee for the Federal bench. I believe she has the necessary experience, the temperament and the judgment required for the bench, as well as the character that we all look for in judicial nominees.

I believe this Committee will agree with me that Loretta Biggs is well qualified to serve on the Federal bench. But let me assure you and those Members who are not here today, this is a fine woman. This is a woman that we can be proud of, a woman that will not only perform in a professional manner, but she will represent the decision of this President and of this Congress in her nomination in a very distinctful way.

I thank the Chair.

Senator HIRONO. Thank you Senator Burr.



Senator Hagan, we will give you a moment to settle in and then please proceed with your testimony in support of Ms. Biggs.

**PRESENTATION OF LORETTA COPELAND BIGGS, NOMINEE TO BE DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF NORTH CAROLINA, BY HON. KAY HAGAN, A U.S. SENATOR FROM THE STATE OF NORTH CAROLINA**

Senator HAGAN. Thank you Madam Chairman. I also want to thank all of the Members of the Judiciary Committee and I am greatly honored to be able to join you today with my colleague, Senator Burr, to introduce an exceptional candidate for the U.S. District for the Middle District of North Carolina, Ms. Loretta Biggs.

I appreciate the opportunity to be here to speak about Ms. Biggs exemplary experience and contributions to public service during her 35 years of service as an Appellate Court and a State Trial Court Judge, a Federal and State Prosecutor and a successful attorney in private practice.

I first want to recognize Ms. Biggs' daughter, Jahmela; her brother, William Miller; her friend, Larry Biggs; and former North Carolina Supreme Court Justice, Patricia Timmons-Goodson. I am delighted that you were all able to join us today. I also want to recognize Ms. Biggs' mother, the late Ernestine Miller, whom she credits for every achievement in her life and who is with us in spirit today.

I also, at this time, want to thank Judge James Beaty, Jr., who assumed senior status in the Middle District earlier this year. Judge Beaty served honorably for 20 years in the Middle District, including 6 years as Chief Judge. I am so grateful for his dedicated service to our State.

Loretta Biggs is currently a partner at the law firm of Allman, Spry, Davis, Leggett and Crumpler in Winston-Salem, North Carolina where her practice includes litigation, mediation, arbitration of complex family law cases and interstate and international child abduction cases. She was formerly the managing partner at Davis, Harwell and Biggs where her specialties included family law, complex civil litigation, and appellate practice. She is a North Carolina Board Certified Family Law Specialist and Board Certified Family Law Financial mediator and a Fellow in the American Academy of Matrimonial Lawyers, one of the highest honors a family law litigator can claim.

Ms. Biggs was previously an Associate Judge on the North Carolina Court of Appeals where she authored over 175 opinions and participated in approximately 300 additional opinions, including criminal and civil substantive law and procedural law issues. Prior to her appointment to the Court of Appeals, Ms. Biggs was Executive Assistant, U.S. Attorney for the Middle District of North Carolina where she oversaw the planning and coordination of all crime prevention and reduction efforts of the U.S. Attorney's Office and developed the model for the Juvenile Crime Prevention Councils that are now operating in all 100 counties in North Carolina.

She was recognized for her work at the U.S. Attorney's Office in 1999 as one of only three recipients in the country of the United States Attorney General's Award for Outstanding Contributions to

Community Partnerships for Public Safety. From 1987 to 1999, Ms. Biggs served as a District Court Judge for the 21st Judicial District of North Carolina, having first been appointed by the Governor and subsequently winning two local elections to retain her seat.

She got her start in public service as an Assistant District Attorney in Forsyth County and began her legal career at the in-house counsel's office at Coca-Cola. She also served as an adjunct professor at my alma mater, Wake Forest University School of Law, where she taught at the legal clinic and began a mentoring program for black law students at the school.

Ms. Biggs has been recognized among the Best Lawyers in America since 2006 and the Super Lawyers since 2007. In 2007, she was also one of the Top 50 Women Lawyers in the Super Lawyers publication.

In addition to her professional honors, she has also been recognized for her outstanding community service, having earned such recognitions as the YMCA Public Leadership Award, the Visionworks Humanitarian Award, the Community Service Award from the Family Services of Forsyth County and the Salvation Army Girls Club Strong, Smart and Bold Award.

Ms. Biggs graduated with Honors from Spelman College in 1976 with a Bachelor of Arts Degree. She went on to earn her Juris Doctorate from Howard University School of Law in 1979, where she was fifth in her class and the Deputy Article Editor for the Howard University Law Journal.

I believe that Ms. Biggs' experience, acuity, leadership and deep roots in her community make her an exemplary choice for the Middle District of North Carolina. If appointed, she will be the only African American to sit as a U.S. District Judge in Winston-Salem. Her extensive legal experience and dedication to public service demonstrate her imminent qualifications for service on the Federal bench and I am confident that she will make an outstanding judge for the Middle District.

I thank you, Madam Chair, for holding this hearing today and allowing me to speak to Ms. Loretta Biggs' abilities. I wholeheartedly support the nomination of Loretta Biggs and look forward to working with you to confirm her to this position as swiftly as possible. Thank you, Madam Chair.

Senator HIRONO. Thank you, Senator Hagan and thank you Senator Burr. I realize that you have other business to attend to, so thank you very much for your presence here.

We do have other Senators who are inadvertently delayed, but I did want to mention that Senator Gillibrand was going to introduce Judge Azrack, Senator Warner to introduce Ms. Dillon, Senator Kaine to also introduce Ms. Dillon and Senator Markey to introduce Mr. Botticelli. Their testimony in support of these nominees will be entered into the record of this hearing.

[The prepared statements of Senator Gillibrand, Senator Warner, Senator Kaine, and Senator Markey appear as submissions for the record.]

Senator HIRONO. At this time I would like to ask the table to be cleared so that our nominees can come to the table. While this is happening, I would like to introduce my statement for the record—

but to say that all of our judicial nominees are filling emergency positions, so this hearing is very important.

[The prepared statement of Senator Hirono appears as a submission for the record.]

Senator HIRONO. Before we get to our nominees, I would like to turn now to Ranking Member Grassley for his opening statement, if any.

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY,  
A U.S. SENATOR FROM THE STATE OF IOWA**

Senator GRASSLEY. For the same reason that you put your statement in the record, I am going to put my statement in the record.

I would announce for the judicial nominees, I am not going to ask questions to be answered today, I am going to issue statements for the record that I would like to have answered in writing, but when we get around to asking questions, I would like to have a short discussion with the Drug Czar.

[The prepared statement of Ranking Member Grassley appears as a submission for the record.]

Senator HIRONO. Certainly.

Will all of our nominees come to the table. I would like you all to rise and raise your right hand for the oath. Do you solemnly swear that the testimony you are about to give the Committee will be the truth, the whole truth and nothing but the truth so help you God?

Judge AZRACK. I do.

Ms. BIGGS. I do.

Ms. DILLON. I do.

Mr. BOTTICELLI. I do.

Senator HIRONO. Thank you. Let the record show that the nominees have answered in the affirmative.

We will start with opening statements from all of our nominees. We will start with you, Judge Azrack.

**STATEMENT OF HON. JOAN MARIE AZRACK, NOMINEE TO BE  
DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK**

Judge AZRACK. Thank you, Senator. I want to thank you and the Committee for convening this hearing today and for inviting me to attend. I want to thank Senator Gillibrand for recommending me to the President and of course, I want to thank President Obama for nominating me for this position.

I would like to take a moment and introduce my family who is here. I would not be here without their love and support.

My husband, William Ballaine, is here. My daughters, Katie Ballaine and Annie Ballaine are here. Katie Ballaine is 23. She is a 2013 graduate of Yale University now working in New York City for NBC. Annie came down from New Haven last night. She is a junior at Yale.

My first cousin, Patricia Loeb is here—who is like a sister to me. A dear friend, Kerry Docherty, and former law clerk is also here. My intrepid and loyal three law clerks came down very early this morning, so chambers is closed today—Bob Terranova, Charlotte Petilla and Diana Srebenik. I want to thank them all for being here with me.

My brother is watching on the webcast as are many members of my Eastern District Court family and I thank them for their support as well.

Before I close, I want to acknowledge two very important people in my life, my parents, John Azrack and Theresa Wieland Azrack, who died some years ago. I know they are with me in spirit and I know they are up there somewhere bursting with pride at me sitting here before a U.S. Senate Committee being considered for a Federal judgeship.

Thank you.

Senator HIRONO. Thank you and welcome to all of your family.

[The biographical information of Judge Azrack appears as a submission for the record.]

Senator HIRONO. Ms. Biggs.

**STATEMENT OF LORETTA COPELAND BIGGS, NOMINEE TO BE DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Ms. BIGGS. Thank you, Senator. First of all, I do want to thank you for—I know, on a very busy day—conducting this hearing. To our Ranking Member of the Judiciary Committee, Senator Grassley, I thank you, sir, for being here.

I do want to thank both of my home-state Senators, both Senator Hagan and Senator Burr. I am humbled by their undaunting support of me through this nomination and now through this confirmation process.

I do want to thank the President for the nomination. I am very proud to be here. I do have with me here today my daughter, Jahmela, who took the redeye from Los Angeles to ensure that she would be here with her mom, seated here.

I have my brother here, William Miller, from Atlanta, Georgia. And I have my dear, good friend, Larry Biggs, here along with me.

We also have the Special Assistant to Former North Carolina Supreme Court Justice, Justice Timmons-Goodson, Cheryl Cozart who is here in support of me as well as Justice Timmons-Goodson.

By webcast, I would like to acknowledge my son, Jolonn; his wife, Kelsie; and our 1-year-old grandson, Jamison Walter. I would also like to acknowledge my sister and brother-in-law in Atlanta, Antoinette Sewell and her family. I would like to acknowledge my brother and sister-in-law—my brother, retired Air Force in Moreno Valley, California, as well as his three children, my nieces and nephews. I would like to acknowledge my in-laws, Louise and Earl Newsom from Williamston, North Carolina, who have been very active in my life.

I would like to thank all of my friends, all of my colleagues, all of my family for supporting me throughout my career. As Senator Hagan mentioned, I would do a special thank you to my mother, Ernestine Lucretia Miller who is no longer with us, but has been my guardian angel throughout my life and continues to be here in her spirit.

Thank you so very much for this opportunity.

[The biographical information of Ms. Biggs appears as a submission for the record.]

Senator HIRONO. Thank you very much.

And now Ms. Dillon.

**STATEMENT OF ELIZABETH K. DILLON, NOMINEE TO BE  
DISTRICT JUDGE FOR THE WESTERN DISTRICT OF VIRGINIA**

Ms. DILLON. Thank you Ranking Senator Grassley, presiding Senator Hirono, and this Committee for allowing me to be here today. I would like to convey my thanks to Senators Warner and Kaine for their recommendation to the President and of course, I am deeply honored by the nomination by President Obama and thank him.

I would also like to introduce and give thanks beyond measure to my family who are here with me today, my husband, Barry Dillon; my daughters, Katie and Anne. Katie is a graduate student studying speech and language pathology. Anne is a junior in college studying human relations and anthropology.

Also with me today I have family friends Ben Strickler and Steward Hundley who are both young men interested in government and happen to be studying and working in Washington, DC, right now.

Watching by webcast today I have my proud parents, Kay Shields, my mother; Ted Hillman and his wife, Bernie—my father. My parents instilled in me a love of learning that continues to benefit me today.

I would like to thank my mother-in-law for all of her support, Lucille Dillon, in spirit, my father-in-law, A.W. Dillon. Also my sisters, Joannie Dunn and Laura Heitzman who helped me hone my verbal skills at an early age. My sisters-in-law Debbie Dillon and Janet McClain and all of their families. Also everyone at my law firm and my many special friends that are supporting me today.

Thank you.

[The biographical information of Ms. Dillon appears as a submission for the record.]

Senator HIRONO. Welcome to all of you.

Mr. Botticelli, you have a different role here. You are not a judicial nominee and you have submitted your testimony, so perhaps you would like to take 5 minutes or so to give your testimony to this Committee.

**STATEMENT OF MICHAEL P. BOTTICELLI, NOMINEE TO BE  
THE DIRECTOR OF NATIONAL DRUG CONTROL POLICY**

Mr. BOTTICELLI. Great. For the sake of dialogue and discussion, I will submit my formal statement for the record to really preserve time.

But I do want to thank you, as Chair of this Committee, and Ranking Member Grassley. It is an incredible honor for me to be in front of you today.

I would also like to acknowledge Senator Markey for his willingness to introduce me and for his support. I have the privilege when he was in the House to be one of his constituents when I lived outside of Boston, so I have a long association with him.

I really want to thank President Obama for nominating me for this position. It is a tremendous honor for me to be here.

I would like to introduce and acknowledge my husband, David Wells for his love and encouragement. I know that I would not be here today without his love and support.

Watching by way of webcast, my two older brothers who are instrumental in guiding me to this point and continue to provide support and guidance for me. I am also joined here today by many friends and colleagues that I have known for a long time who have given me a tremendous amount of guidance and support not only during my time at ONDCP, but also my time at the State level.

I would also like to recognize my parents who are no longer here. My parents were first-generation Italian immigrants and to have their son nominated to this position, I cannot thank them enough for all of the hard work and sacrifice that they gave me and my brothers to be in this position where we are today.

And finally, I would like to thank my staff at ONDCP, many of whom are here today. I really have the privilege and honor of representing their fine work as we think about protecting the American people from drug use.

Thank you.

[The biographical information and prepared statement of Mr. Botticelli appear as submissions for the record.]

Senator HIRONO. Thank you very much. And just for purposes of clarification, Mr. Botticelli, you are being nominated to be the Director of the National Drug Control Policy.

At this point, the Committee will open for 5 minutes of questioning by myself and the Ranking Member Grassley.

As our judicial nominees have come all this way, I know that Senator Grassley will be submitting his questions for the record for your response for the record. I would just like to ask each of you, very briefly, to tell us a little bit about what you see as the challenges in serving as a Federal District Court Judge. We realized that you have diverse experiences as judges and in the private sector, but if each of you could just briefly share with this Committee what you see as the challenges in serving as a Federal Court Judge.

Let us start with you.

Judge AZRACK. Thank you, Senator.

The challenges I see are the challenges I have been confronting for 23 years as a United States Magistrate Judge in the Eastern District of New York. That is making sure that everyone who comes into my courtroom is respected, their views are heard, they are given their day in court, they feel as if our justice system is working for them and that I hear their case and base my decision on existing law, applying the existing law to the facts and give them a ruling promptly and with clarity so that when they leave my courtroom, they understand—even if they may not have prevailed—they understand why I did what I did and they leave with some enduring confidence in our system.

Ms. BIGGS. The challenges that I would see are ensuring that every person that comes before the court understands that the court is a vehicle through which they can ensure that their claims are heard, that their claims are heard by a knowledgeable judge, that their claims are handled in an efficient way, that they have

a full opportunity to have those claims heard in a very fair and impartial way.

It is critical that each person that comes into our Federal courthouse believes that the court will hear them, allow their attorneys to try their cases in the best way that they know how and that there will be a deliberate and speedy trial.

Thank you.

Ms. DILLON. Thank you, Senator, for that question.

The challenge I see is to honor and have the outmost respect for the tremendous responsibility placed on a person in the position of district court judge. From that respect flows all of those other things, the respect for the rule of law, the respect for the litigants and the respect for the lawyers appearing in that court, a sense of fairness and impartiality and that transition from advocate to judge to fair and impartial decisionmaker. I pledge to this Committee that I have that utmost respect and recognize the tremendous responsibility placed on that position.

Also, with the Western District of Virginia, I will tell you that I have a special place in my heart for that court. It is a welcoming court.

We recently lost Judge Turk, one of the senior judges, at age 91 years old who was very active in the court and has taught every litigant and every lawyer who has appeared before him that with responsibility comes the duty to be fair and impartial and kind. I would hope that I could do the same. Thank you.

Senator HIRONO. Thank you. I have a question for Mr. Botticelli. We know that opioid addiction is on the rise and the result is an increase in overdoses, death and costs.

I cosponsored the TREAT Act, which I believe you are familiar with, earlier this year which would expand the number of patients that a provider can treat for opioid addiction as well as the type of providers eligible for providing this kind of treatment. Can you comment on how you think the TREAT Act fits into a national plan for dealing with opioid addiction?

Mr. BOTTICELLI. Senator, as you indicated, we have been significantly concerned about the dramatic increase in opioid use, both prescription drugs and heroin use throughout the country and as you indicated, the devastating impact that that has had on mortality.

The recent yearly data show that 110 people are dying every day of a drug-related overdose. These are deaths that are entirely preventable.

In 2011, our office sponsored a prescription drug abuse plan that we are making significant progress on. One of those principles I think is very much in keeping with the intent of your legislation, that we have effective medications that we know are highly effective, not only in treating opioid use disorders, but preventing mortality. So we are very supportive of looking at ways that we can work with our Federal agencies and State and locals to increase access to these lifesaving medications.

Part of what I started as Deputy Director was convening a treatment workgroup of all of our Federal partners to look at not only how could we increase access to treatment that we know is effective, but especially focused on increasing access to all of the FDA

approved medications for opioid use disorder. We would be happy to work with you to look at how we can continue to focus our efforts on making sure that people with those disorders have access to those lifesaving medications.

Senator HIRONO. My 5 minutes are up.

Senator Grassley, would you like to proceed?

Senator GRASSLEY. Thank you. Just let me explain to our judicial nominees so you do not think you are less important. Normally, I would be asking questions orally and I am not today because we got started so late. It is neither one of our faults. As you probably know, it was the caucuses for the Democrat and Republican parties that help us up.

So I am going to just ask of Mr. Botticelli. You have been a leading voice against legalization of recreational marijuana. First of all, I would thank you for that. Could you explain why you are against legalization and tell us what the latest scientific studies have shown about the effects of marijuana use on young people's brains, a potential for facilitating addiction.

Mr. BOTTICELLI. Thank you Ranking Member Grassley. As you indicated, we have been opposed to legalization efforts and that is a direct result of the abundant scientific evidence we have about the public health harms and public safety harms around marijuana.

We know that about 1 in 11 people or 9 percent become dependent on marijuana when they use it on a regular basis. And we know that the earlier people use and the earlier youth use, the more likelihood they have in developing a more significant substance use disorder.

While we have made progress in many of the areas on reducing drug use in the United States, marijuana is, unfortunately, not one of them. We have more youth in the United States now who are smoking marijuana than they are tobacco. That is directly tied to the lack of risk that youth have in the United States of using marijuana and that is directly tied to the messages that youth are getting both in terms of legalization efforts as well as medical marijuana, that these substances are not harmful.

Part of what I do when I go across the country is talk to youth about the messages that they hear. We have made considerable progress on tobacco and youth will tell you that it is harmful.

But I am really disturbed by what they say to me about marijuana and they see it as benign and in some cases they see it as healthful because of a medical community prescribing this medication. So we have significant issues all ready with marijuana and we are really concerned about the commercialization of marijuana and what that is going to mean in terms of increased access to youth.

Senator GRASSLEY. Some have said that legalization of marijuana should only be a first step, that the use of other drugs like cocaine, heroin, and methamphetamine should be legalized. Now you have publically described—and you have got to be complimented for doing this—your courageous story, personal story of recovering from addiction.



Are you in favor of legalizing the use of these drugs and what would legalizing use of these drugs do to public health, especially those at risk of addiction?

Mr. BOTTICELLI. We do not support that and I do not support that. As you indicated, Senator, I only have to look back at my own story around addiction and recovery to know the devastating impact that alcohol and other drugs have on people.

I know that that is entirely preventable and I know that legalization is not the solution to our problems. We also know that many of the folks who are promoting legalization of marijuana see this as a first step and they want to legalize other drugs which we think is entirely antithetical to a public health approach. We want to make sure that we are preventing drug use from happening. We want to make sure we have safe communities that are free from these substances to improve the probability that our youth are going to make healthier choices in their lives.

So I do not see legalization of marijuana or any other drugs as enhancing that public health approach and have significant concerns about the availability of these substances and what it says to the youth of our country.

Senator GRASSLEY. We have a situation where a person by the name of Vinita Gupta has been nominated as Acting Assistant Attorney General for Civil Rights. In addition to being in favor of marijuana legalization, she has written that “states should decriminalize simple possession of all drugs” with emphasis upon “all drugs.”

So based on your recent statement, I assume it is your view that Ms. Gupta’s recommendation would be disastrous for public health if adopted.

Mr. BOTTICELLI. I cannot speak to exactly what her positions are, other than what I have read in the paper. I will tell you that this Administration remains firmly opposed to legalization and other liberalization of our drug policies. Again, that is not coming from an ideological perspective. It is really based on the robust scientific evidence that we have.

Senator GRASSLEY. Sure. My last question, and it follows on—  
Senator HIRONO. Feel free to.

Senator GRASSLEY. Thank you. It follows on with your discussion of opioids, but a little bit different.

The Administration’s most recent prescription drug prevention plan, issued April 2011, the plan focused on prescription opioids. One of its goals was to reduce deaths associated with these drugs. Since then we have seen an epidemic of prescription drug abuse develop even in my State and in many parts of the United States.

So my last question is, do you think the plan needs to be revised in any way in light of the alarming developments over the last 3 years and if so, would you plan to issue one?

Mr. BOTTICELLI. Let me share with you what I think has been some significant progress that we have made since we implemented many of the strategies of that plan.

So most recent data suggests that the misuse of prescription pain medication among youth and young adults has been dropping and for the first time in 15 years, we actually saw a decrease in pre-

scription drug-related mortality. So we know and we are cautiously optimistic that our plan is taking root and taking hold.

One of the things that has been a significant concern for us—although a smaller level—has been the dramatic increase that we have seen in heroin and heroin use rates. To really reflect that, our most recent 2014 National Drug Control Strategy talks about our continued efforts, both in terms of demand reduction and supply reduction efforts specifically focused on the heroin issue. We know that many newer users to heroin actually start their opioid addiction on prescription pain medication. So we know we have to keep up our efforts on that front and augment our plan to really focus on the heroin issues that we are now seeing taking hold across the country.

Senator GRASSLEY. I thank you for your questions. And I thank the other people for answering them in writing.

Senator HIRONO. Thank you Senator Grassley. I will submit a few more questions for Mr. Botticelli, if you can respond for the record.

I would also like to enter into the record numerous letters of support for Mr. Botticelli.

[The letters appear as submissions for the record.]

Senator HIRONO. I would like to thank all of you and your families and friends for being here and being available to respond to our Committee.

The record will remain open for 1 week for submission of written questions for the witnesses and for the submission of other materials.

With that, this hearing is adjourned.

[Whereupon, at 12:56 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows.]

# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Witness List

Hearing before the  
Senate Committee on the Judiciary

On

“Nominations”

Thursday, November 13, 2014  
Dirksen Senate Office Building, Room 226  
11:00 a.m.

Joan Marie Azrack, to be a United States District Judge for the Eastern District of New York

Loretta Copeland Biggs, to be a United States District Judge for the Middle District of North  
Carolina

Elizabeth K. Dillon, of Virginia, to be a United States District Judge for the Western District of  
Virginia

Michael P. Botticelli, to be Director of National Drug Control Policy

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Joan Marie Azrack

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

United States District Judge for the Eastern District of New York

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: United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

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

1951; Neptune, New Jersey

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.

1976 – 1979, New York Law School; J.D., 1979

1972 – 1974, Rutgers University, Livingston College; B.S., 1974

1971 – 1972, Monmouth College; no degree awarded

1971 – 1971, St. Peter's College; no degree awarded

1969 – 1971, Rosemont College; no degree awarded

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.

1990 – Present  
 United States District Court  
 Eastern District of New York  
 225 Cadman Plaza East  
 Brooklyn, New York 11201  
 United States Magistrate Judge

1988 – 1991  
 Harvard Law School  
 1563 Massachusetts Avenue  
 Cambridge, Massachusetts 02138  
 Visiting Instructor at the Winter Intercession of the National Institute of Trial Advocacy  
 (unpaid)

1982 – 1990  
 United States Attorney's Office  
 Eastern District of New York  
 271 Cadman Plaza East  
 Brooklyn, New York 11201  
 Deputy Chief, Criminal Division (1987 – 1990)  
 Chief, Business and Securities Fraud Section (1987 – 1990)  
 Deputy Chief, Narcotics Section (1985 – 1986)  
 Assistant United States Attorney (1982 – 1990)

1979 – 1981  
 United States Department of Justice  
 Criminal Division  
 950 Pennsylvania Avenue, NW  
 Washington, D.C. 20530  
 Honors Program–Trial Attorney

September 1978 – May 1979  
 Donovan, Leisure, Newton & Irvine (no longer in existence)  
 30 Rockefeller Plaza  
 New York, New York 10112  
 Student Intern

June – August 1978  
 United States Attorney's Office  
 Southern District of New York  
 1 St. Andrews Plaza  
 New York, New York 10007  
 Summer Intern

June – August 1977  
Office of Management and Budget  
New Executive Office Building  
725 17th Street, NW  
Washington, D.C. 20530  
Summer Intern

January – June 1977  
New York Law School  
Alumni Office  
40 Worth Street  
New York, New York 10013  
Student Clerk

September 1976 – January 1977  
Beldock, Levine & Hoffman  
99 Park Avenue, #1600  
New York, New York 10016  
Student Intern

June – August 1976  
Borough of Spring Lake  
523 Warren Avenue  
Spring Lake, New Jersey 07762  
Beach Badge Checker

January – May 1976  
New York County District Attorney's Office  
One Hogan Place  
New York, New York 10013  
Student Intern

February – June 1975  
Light & Lovely Fitness Salon (no longer in existence)  
Route 35  
Ocean, New Jersey 07712  
Fitness Instructor

June – August 1974  
The Hutch (no longer in existence)  
Third Avenue  
Spring Lake, New Jersey 07762  
Retail Clerk

Other affiliations (uncompensated):

2001 – 2007  
Heights Casino  
75 Montague Street  
Brooklyn, New York 11201  
Board Member

2006 – 2008  
Spring Lake Bath & Tennis Club  
1 Jersey Avenue  
Spring Lake, New Jersey 07762  
Board Member

2005 – 2008  
Willowtown Association  
26 Willow Place  
Brooklyn, New York 11201  
Board Member

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 was not required to register for selective service.

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.

Eastern District Association Award (2006)

United States Customs Service, Certificate of Appreciation (1989)

Merrill Lynch Award for work in United States v. Jacobowitz (credit card fraud prosecution) (1988)

International Association of Credit Card Investigators Prosecutor of the Year, Second Place (1987)

United States Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, Certificate of Appreciation (1987)

Drug Enforcement Administration, Certificate of Appreciation (1986)

Federal Bureau of Investigation Director's Commendation for Outstanding Performance in Sicilian/Indian Heroin Prosecution (1985)

Drug Enforcement Administration Commendation for Outstanding Performance in United States v. Mullin Prosecution (1983)

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.

Eastern District Committee on Civil Litigation (2004 – 2005)

United States Judicial Conference Committee on Judicial Security (2012 – Present)  
Magistrate Judge Representative

William C. Connor Intellectual Property Inn of Court (2010 – Present)  
Judicial Member

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.

New York State, 1980

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.

New York State courts, 1980  
United States Court of Appeals for the Second Circuit, 1982

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.



Eastern District Association (1995 – Present)

Federal Magistrate Judges Association (1993 – Present)

Heights Casino (1996 – Present)  
Board Member (2001 – 2007)

Spring Lake Bath & Tennis Club (1991 – Present)  
Board Member (2006 – 2008)

Willowtown Association (2005 – 2008)  
Board Member (2005 – 2008)

- 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 the best of my knowledge, none of the organizations listed above 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.

Committee on Judicial Security, *Report of the Judicial Conference* (September 2014). Copy supplied.

Committee on Judicial Security, *Report of the Judicial Conference* (March 2014).  
Copy supplied.

Committee on Judicial Security, *Report of the Judicial Conference* (September  
2013). Copy supplied.

Committee on Judicial Security, *Report of the Judicial Conference* (March 2013).  
Copy supplied.

- 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.

None.

- 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.

June 21 – July 2, 2014: Panelist, New York University School of Law’s U.S.-Asia Law Institute, Beijing and Guangzhou, China. I participated in panel discussions on bail reform and presided over mock bail hearings. I have no notes, transcripts, or recordings. The U.S.-Asia Law Institute is located at New York University School of Law, 139 MacDougal Street, Room 508, New York, New York 10012.

March 2012, March 2011: Panelist, St. Joseph’s High School Career Day, Brooklyn, New York. I spoke to high school students about pursuing careers in the law. I have no notes, transcripts, or recordings. St. Joseph’s High School is located at 80 Willoughby Street, Brooklyn, New York 11201.

November 18, 2011; November 19, 2010; November 18, 2009; December 5, 2008: Moot Court Judge, New York Law School, New York, New York. On these four occasions, I presided over a moot court as part of a trial advocacy course taught by Adjunct Professor Alan Vinegrad at New York Law School. I have no notes, transcripts, or recordings. New York Law School is located at 185 West Broadway, New York, New York 10013.

October 18, 2007: Panelist, Panel on Civil Practice before Magistrate Judges,

Richmond County Bar Association, Staten Island, New York. I participated in discussions about civil practice before federal magistrate judges. I have no notes, transcripts, or recordings. The Richmond County Bar Association is located at 152 Stuyvesant Place, Suite 203, Staten Island, New York 10301.

January 26, 2006: Award Recipient, Eastern District Association Annual Dinner, New York, New York. Notes supplied.

February 3, 2005: Moot Court Judge, National Moot Court Competition, Association of the Bar of the City of New York, New York, New York. I presided over the final round of the competition. I have no notes, transcripts, or recordings. The Association of the Bar of the City of New York is located at 42 West 44th Street, New York, New York 10036.

June 7, 2002: Panelist, "Marching Through Cyberia: Discovery in the Electronic Age," 2002 Judicial Conference of the Second Circuit, New Paltz, New York. Transcript supplied.

1990 – Present: United States Magistrate Judge, Naturalization Ceremonies, United States District Court for the Eastern District of New York, Brooklyn, New York. I preside over naturalization ceremonies several times a year, and I give the same remarks at each ceremony. Remarks supplied.

December 1990: Speaker, United States Magistrate Judge Induction Speech, United States District Court for the Eastern District of New York, Brooklyn, New York. Notes supplied.

Unknown Date: Moot Court Judge, Brooklyn Law School, Brooklyn, New York. Prior to becoming a federal magistrate judge, I presided over one or more moot court programs at Brooklyn Law School. I do not recall the dates of these programs, and I have no notes, transcripts, or recordings. Brooklyn Law School is located at 250 Joralemon Street, Brooklyn, New York 11201.

Unknown Date: Moot Court Judge, St. John's University School of Law, Queens, New York. Prior to becoming a federal magistrate judge, I presided over one or more moot court programs at St. John's University School of Law. I do not recall the dates of these programs, and I have no notes, transcripts, or recordings. St. John's University School of Law is located at 8000 Utopia Parkway, Queens, New York 11439.

- 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.

Deborah Sontag, *Long Distance Justice in Sexual Abuse Case*, The New York Times, April 12, 1997. Copy supplied.

Deborah Sontag, *American Abroad Accused of Fraud*, The Miami Herald, September 16, 1990. Copy supplied. (quote reprinted in multiple outlets).

Pete Bowles, *Queens Exec Cops Plea in \$40M Tax Scam*, Newsday, March 17, 1990. Copy supplied.

Peter Bowles & Robert E. Kessler, *4 Arrested in 'Fatman' Probe Tax, Bank Officials Accused*, Newsday, February 4, 1988. Copy supplied.

Toni Locy, *Informant a Man of Conviction*, Philadelphia Daily News, October 31, 1986. Copy supplied.

*British Earl Indicted as Drug Ring Patron*, The Chicago Tribune, July 30, 1986. Copy supplied.

Joseph P. Fried, *2 Figures in Drug Ring Case Arrange to Enter Guilty Pleas*, The New York Times, October 9, 1983. Copy supplied.

*Domestic News*, United Press International, October 7, 1983. Copy supplied.

*U.S. Indicts 14 on Drug Charges*, The New York Times, August 20, 1983. Copy supplied.

Paul Moses, *Spelling Error Leads to Overturning of Weapons Conviction*, The Associated Press, July 1, 1983. Copy supplied. (quote reprinted in multiple outlets).

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.

In December 1990, I was appointed a United States Magistrate Judge for the Eastern District of New York. I was reappointed to a second term in 1998 and a third term in 2006. I was appointed Chief Magistrate Judge in 2000 and served in that position until 2005. I preside over all pretrial proceedings, including discovery, non-dispositive motion practice, and settlement negotiations in civil cases. I also rule on dispositive motions upon referral from the district court. Where all parties in a civil action consent to my jurisdiction, I preside over the action in full. When I am on arraignment duty, I preside over the initial phase of all criminal matters, including the initial appearance and bail hearings. I also preside over misdemeanor and petty offenses. On referral from the district court, I hear guilty pleas; handle criminal motions, such as suppression motions; and conduct jury selection in both criminal and civil cases. Since 2013, I have served as a Supervising Judge for the Eastern District's Special Options Services Program, which is

an alternative to pretrial detention for young adult offenders.

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

As a United States Magistrate Judge, I have presided over approximately 70 cases that have gone to verdict or judgment. Because I can only preside over civil matters by consent of the parties and over criminal trials involving misdemeanor and petty offenses, only a small percentage of the thousands of cases I have handled have gone to trial.

- i. Of these, approximately what percent were:

jury trials:	50%
bench trials:	50%
civil proceedings:	94%
criminal proceedings:	6%

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

See attached list of opinions.

- 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).

These cases are listed in reverse chronological order.

1. Singer v. Abbott Laboratories, No. 05-CV-3386 (ENV) (E.D.N.Y.) (lead case). There are approximately 50 related cases.

These cases involve numerous plaintiffs who suffered injuries as a result of in utero exposure to diethylstilbestrol ("DES"). DES was a drug developed in the late 1930s and was used to treat symptoms of certain cancers and menopause, and was believed to prevent miscarriages and fetal death. The drug was prescribed well into the 1970s. Women prescribed DES often gave birth to children who developed serious disorders. In approximately 2005, this landmark mass tort litigation was assigned to me. Since then, I have presided over extensive pretrial proceedings and case management conferences. I also issued reports and recommendations for numerous summary judgment motions in this litigation. Some of these decisions are publicly available at: Bezuidenhout v. Abbott Labs. & Co., 918 F. Supp. 2d 144 (2013); Mazzei v. Abbott Labs. & Co., No. 10-CV-2233, 2012 WL 1100738 (E.D.N.Y. Mar. 13, 2012); and Marks v. Abbott Labs. &

Co., No. 11–CV–4147, 2012 WL 1004892 (E.D.N.Y. Jan. 11, 2012). The district court adopted all of my recommendations on these motions. Additionally, I mediated and settled numerous cases. This litigation is currently ongoing, but is close to conclusion.

Counsel for Plaintiffs: Sybil Shainwald  
Law Office of Sybil Shainwald  
111 Broadway, 4th Floor  
New York, NY 10006  
(212) 425-5566

Michael A. London  
Douglas & London  
59 Maiden Lane, 6th Floor  
New York, NY 10038  
(212) 566-7500

Counsel for Defendants: Samuel J. Abate, Jr.  
Pepper Hamilton LLP  
620 Eighth Avenue  
New York, NY 10018  
(212) 808-2706

2. Godlewska v. HDA, Human Development Association, Inc.,  
No. 03–CV–3985 (RJD) (E.D.N.Y.)

This wage-and-hour collective action involves 200 named and opt-in plaintiffs who worked as home health care attendants for a private not-for-profit agency. The agency contracted with New York City to provide home attendant services to city residents. The plaintiffs alleged that the agency and New York City violated the Fair Labor Standards Act by failing to pay the attendants overtime and minimum wages. In addition to supervising discovery and other pretrial matters, I also issued two opinions. Early in the case, I decided the plaintiffs' motion to amend, which addressed the relation-back doctrine and contract law concerning third-party beneficiaries. Godlewska v. HDA, No. 03–CV–3985, 2006 WL 1422410 (E.D.N.Y. May 18, 2006). Recently, the parties consented to my jurisdiction to decide their competing summary judgment motions on the central issue of the litigation—namely, whether New York City's relationship with the agency rendered the city a joint employer under the FLSA. Godlewska v. HDA, 916 F. Supp. 2d 246 (E.D.N.Y. 2013). I concluded that New York City is not a joint employer and the Second Circuit Court of Appeals affirmed my decision. Godlewska v. HDA, 561 F. App'x 108 (2d Cir. 2014). The case is ongoing.

Counsel for Plaintiffs: Robert Wisniewski  
Robert Wisniewski & Associates PC  
225 Broadway

Suite 1020  
New York, NY 10007  
(212) 267-2101

Counsel for Defendants: Andrea O'Connor (for the municipal defendants)  
New York City Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-1000

Jeffrey S. Ettenger (for defendant HDA)  
(representation withdrawn)  
Kaufman Dolowick & Voluck LLP  
135 Crossway Park Drive  
Suite 201  
Woodbury, NY 11797  
(516) 681-1100

3. Klezmer v. Camp Cayuga, Inc., No. 02-CV-5184 (JMA) (E.D.N.Y.)

The plaintiff was injured in an All-Terrain Vehicle (“ATV”) accident at the defendant’s summer camp. The plaintiff claimed that when he attempted to brake while approaching a sharp turn, the brakes did not work properly and he was thrown from the ATV into a ditch, breaking his leg. The plaintiff’s mother brought a lawsuit on his behalf alleging that the camp was negligent in maintaining the ATVs, that the campers were inadequately supervised, and that the ATV plaintiff was riding was dangerously defective. I handled all discovery, settlement discussions, and pretrial motion practice. I issued an opinion on the plaintiff’s spoliation and sanctions motions, finding that an adverse inference instruction was an appropriate remedy for the defendant’s negligent failure to preserve relevant ATV maintenance records. Klezmer ex rel. Desyatnik v. Buynak, 227 F.R.D. 43 (E.D.N.Y. 2005). The parties consented to my jurisdiction and I presided over a jury trial. The case settled during jury deliberations.

Counsel for Plaintiff: Daniel J. Hansen  
Law Offices of Daniel J. Hansen  
711 Third Avenue  
Suite 1505  
New York, NY 10017  
(212) 697-3701

Counsel for Defendant: William Goldman Scher  
Garbarini and Scher, PC  
432 Park Avenue South

New York, NY 10016  
(212) 689-1113

4. Amerisource Corp. v. Rx USA International, Inc., No. 02-CV-2514 (JMA)  
(E.D.N.Y.)

In this complex commercial dispute, the plaintiff, a pharmaceutical distributor, sued the defendant pharmacies for breach of contract over pricing disputes. The defendants counterclaimed for breach of contract and tortious interference, alleging that the plaintiff's sales representative had verbally promised the defendants price discounts. Four years into the litigation, the case was reassigned to me and, after the district judge denied summary judgment, the parties consented to my jurisdiction for all purposes. I presided over settlement conferences, additional discovery, and a nine-day trial, with the contract claims tried to the bench and the tort claim tried to the jury. After the jury rejected the defendants' tort claim and returned an advisory verdict on the contract claims, I issued a decision awarding the plaintiff over \$2 million in damages and attorney's fees. Amerisource Corp. v. Rx USA Int'l, Inc., No. 02-CV-2514, 2010 WL 2160017 (E.D.N.Y. May 26, 2010). Motion practice included extensive in limine motions and the plaintiff's request for sanctions, which I granted, sanctioning the defendants and their CEO for fabricating evidence. Amerisource Corp. v. Rx USA Int'l, Inc., No. 02-CV-2514, 2010 WL 2730748 (E.D.N.Y. July 6, 2010); Amerisource Corp. v. Rx USA Int'l, Inc., No. 02-CV-2514, 2009 WL 235648 (E.D.N.Y. Jan. 30, 2009); Amerisource Corp. v. Rx USA Int'l, Inc., No. 02-CV-2514, 2008 WL 2783355 (E.D.N.Y. July 15, 2008). The Second Circuit Court of Appeals affirmed my sanctions ruling. New York Credit & Fin. Mgmt. Grp. v. Parson Ctr. Pharmacy, Inc., 432 F. App'x 25 (2d Cir. 2011).

Counsel for Plaintiff:

Craig D. Mills  
Buchanan Ingersoll & Rooney, PC  
Two Liberty Place  
50 South 16th Street  
Suite 3200  
Philadelphia, PA 19102  
(215) 665-3863

Paul G. Nofer  
Klehr Harrison Harvey Branzburg LLP  
1835 Market Street  
Suite 1400  
Philadelphia, PA 19103  
(215) 569-3287

Counsel for Defendants:

Michael L. Levine  
The Law Firm of Michael Levine  
15 Barclay Road



Scarsdale, NY 10583  
(914) 713-4543

5. Flash Electronics, Inc. v. Universal Music & Video Distribution Corp., No. 01-CV-979 (RRM) (E.D.N.Y.)

In this antitrust suit, the plaintiffs were wholesale distributors of home video and DVD products. The defendants were Universal, a movie and television show producer, and two wholesale distributors that directly competed with the plaintiffs. The plaintiffs alleged that the defendants conspired to unlawfully eliminate competition in the video rental market and increase prices. After I supervised discovery, I issued a report and recommendation denying the plaintiffs' motion for spoliation sanctions and granting the defendants' motion for partial summary judgment on the plaintiffs' Sherman Act claim. The district court adopted my recommendations. Flash Elecs., Inc. v. Universal Music & Video Distrib. Corp., No. 01-CV-979, 2009 WL 7266571 (E.D.N.Y. Oct. 19, 2009), adopted by 2010 WL 5390176 (E.D.N.Y. Dec. 22, 2010). Before filing further motions on the remaining claims, the parties settled.

Counsel for Plaintiffs: Fredric B. Goodman  
Marin Goodman, LLP  
500 Mamaroneck Avenue  
Suite 501  
Harrison, NY 10528  
(212) 661-1151

Counsel for Defendants: Lee S. Taylor  
(formerly with Munger, Tolles & Olson, LLP)  
Maurice Blackburn Lawyers  
456 Lonsdale Street, Level 10  
Melbourne, VIC 3000  
Australia  
(03) 9605-2892

Stuart N. Senator  
Munger, Tolles & Olson, LLP  
355 South Grand Avenue  
Los Angeles, CA 90071  
(213) 683-9528

6. Johnson v. West, No. 99-CV-4339 (JMA) (E.D.N.Y.); Johnson v. Nicholson, No. 05-CV-2740 (JMA) (E.D.N.Y.)

The plaintiff brought these two related employment discrimination cases against the Department of Veteran Affairs. The parties consented to my jurisdiction in both cases. During the first case, I handled all pretrial matters, including multiple

discovery and settlement conferences. I also presided over a two-week jury trial on the plaintiff's hostile work environment and retaliation claims. The jury returned a verdict in favor of the defendant. The plaintiff appealed the verdict and the Second Circuit Court of Appeals affirmed. Johnson v. Nicholson, 349 F. App'x 604 (2d Cir. 2009) (consolidated appeal).

In 2005, the plaintiff filed a second case alleging the Department of Veteran Affairs retaliated against her for her earlier federal lawsuit over which I had presided. After overseeing discovery, I granted the defendant's motion for summary judgment. Johnson v. Nicholson, No. 05-CV-2740, 2007 WL 1395546 (E.D.N.Y. May 11, 2007). The plaintiff appealed and the Second Circuit Court of Appeals affirmed. Johnson v. Nicholson, 349 F. App'x 604 (2d Cir. 2009) (consolidated appeal).

Counsel for Plaintiff: Michael Resko  
Law Offices of Michael Resko  
60 East 42nd Street, 46th Floor  
New York, NY 10165  
(212) 490-3010

Counsel for Defendants: Michael J. Goldberger  
Catherine Mary Mirabile  
United States Attorney's Office  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201  
(718) 254-7000

Linda Marie Marino  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
Flemming Zulack Williamson Zauderer LLP  
One Liberty Plaza  
New York, NY 10006  
(212) 412-9520

7. Yanez v. City of New York, No. 94-CV-5925 (JMA) (E.D.N.Y.)

This civil rights action arose out of a collision that occurred between the plaintiff's vehicle and a police vehicle prior to the plaintiff's arrest for Driving While Intoxicated. The plaintiff brought this § 1983 action against the city and NYPD officers alleging false imprisonment, false arrest, malicious prosecution, conspiracy, negligent hiring, retention, supervision and training, and also seeking recovery under New York Insurance law for injuries sustained during the collision. The parties consented to my jurisdiction and I handled all aspects of the case, including pretrial discovery and a summary judgment motion, reported at

Yanez v. City of New York, 29 F. Supp. 2d 100 (E.D.N.Y. 1998). I presided over a one-week jury trial where the jury found for the defendants. The plaintiff did not appeal the verdict.

Counsel for Plaintiff: Thomas G. Sheehan (deceased)

Amy Marion  
(formerly with Cheda & Sheehan)  
Barket, Marion, Epstein & Kearon, LLP  
666 Old Country Road, 7th Floor  
Garden City, NY 11530  
(516) 745-1500

Counsel for Defendants: Kevin J. Smith  
(formerly with the New York City Law  
Department)  
Sheppard Mullin, LLP  
30 Rockefeller Plaza  
New York, NY 10112  
(212) 634-3052

Warren Shaw  
New York City Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-1000

8. United States v. Lewis, No. 93-CR-1342 (JMA) (E.D.N.Y.)

The defendant, a postal worker, was charged, under 18 U.S.C. § 1701, with two counts of obstructing the passage of the mail after co-workers observed him opening and destroying mail. I presided over motion practice and a bench trial of these petty offenses. In a pretrial motion, the defendant argued that when the potential sentences for the two counts were aggregated, the total potential sentence exceeded six months and, thus, triggered his right to a jury trial. I denied the defendant's motion. After a bench trial, I convicted the defendant of both counts and sentenced him to three years' probation, which included mandatory substance abuse treatment. The defendant appealed my denial of a jury trial to the district court and the Second Circuit Court of Appeals. Both courts affirmed my ruling. See United States v. Lewis, 65 F.3d 252 (2d Cir. 1995). The defendant then appealed to the United States Supreme Court, which affirmed my ruling in an opinion authored by Justice O'Connor. Lewis v. United States, 518 U.S. 322 (1996).

Counsel for the Government: James Walden  
 (formerly with the United States Attorney's Office,  
 Eastern District of New York)  
 Gibson, Dunn & Crutcher LLP  
 200 Park Avenue  
 New York, NY 10166  
 (212) 351-4000

Joel M. Cohen  
 (formerly with the United States Attorney's Office,  
 Eastern District of New York)  
 Greenburg Traurig, LLP  
 885 Third Avenue, 24th Floor  
 New York, NY 10022  
 (212) 848-1000

Counsel for Defendant: Jan Alison Rostal  
 Federal Defenders of New York, Inc.  
 One Pierrepont Plaza, 16th Floor  
 Brooklyn, NY 11201  
 (718) 330-1200

9. Jemmott v. City University of New York, No. 92-CV-1564 (JMA) (E.D.N.Y.)

In this Title VII civil rights action, the plaintiff, a former university administrator, sued New York City Technical College and various high-level administrators for race discrimination. I handled all aspects of this case including a bench trial, for which I issued a published decision. Jemmott v. City Univ. of New York, 885 F. Supp. 393 (E.D.N.Y. 1994). I found for the defendants, but denied the defendants' request for attorney's fees. The Second Circuit Court of Appeals affirmed my decision. Jemmott v. City Univ. of New York, 57 F.3d 1063 (2d Cir. 1995).

Counsel for Plaintiff: Hon. Denny Chin  
 (formerly with Vladek, Waldman, Elias &  
 Engelhard, P.C.)  
 United States Circuit Judge  
 United States Court of Appeals, Second Circuit  
 40 Foley Square  
 New York, NY 10007  
 (212) 857-8500

Counsel for Defendants: Lisa Rothschild Dell  
 New York State Office of the Attorney General  
 120 Broadway, 24th Floor  
 New York, NY 10271  
 (212) 416-8700

10. United States v. Velazquez, No. 92-CR-1265 (SJ) (E.D.N.Y.)

This case involved a multi-defendant narcotics distribution conspiracy. I was referred all pretrial motions, including the defendants' motions to suppress identification testimony, physical evidence, and statements; motion to sever; and request for a hearing under Franks v. Delaware, 438 U.S. 154 (1978). After a five-day hearing, I denied the defendants' motions in their entirety. I rejected the defendants' request for a Franks hearing, finding that the search warrant affidavits did not contain falsehoods or omissions. As to the motion to suppress the identification testimony, I found that although the photographs shown to the witnesses were suggestive, the identifications were still admissible because the witnesses had an independent basis in memory that was sufficient to render the identifications reliable. I denied the defendants' other motions to suppress, finding that the disputed questioning and searches were constitutionally permissible. The district court adopted my report and recommendation in full. All of the defendants entered guilty pleas prior to trial. A copy of my report and recommendation is supplied.

Counsel for the Government: Jodi Avergun  
 (formerly with the United States Attorney's Office,  
 Eastern District of New York)  
 Cadwalader, Wickersham & Taft LLP  
 700 Sixth Street, NW  
 Washington, DC 20001  
 (202) 862-2456

Counsel for Defendants: Barry E. Schulman (for defendant Mr. Velazquez)  
 Law Offices of Barry E. Schulman  
 16 Court Street  
 Suite 1800  
 Brooklyn, NY 11241  
 (718) 855-8855

John H. Jacobs (Deceased) (for defendant Mr. G. Roa)

Jerald Levine (for defendant Mr. Velasco)  
 (solo practitioner)  
 7319 Broadway  
 Jackson Heights, NY 11372  
 (718) 507-6464

Paul Warburgh (for defendant Mr. F. Roa)  
 (solo practitioner)  
 P.O. Box 1933

Huntington, NY 11743  
(631) 223-2370

Robert Blossner (for defendant Mr. Lara)  
(formerly a solo practitioner)  
Pawar Gilgallon & Rudy, LLC  
30 Vesey Street, 2d Floor  
New York, NY 10007  
(212) 571-0805

- 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.

These opinions are listed in reverse chronological order.

1. Godlewska v. HDA, 916 F. Supp. 2d 246 (E.D.N.Y. 2013)

Counsel for Plaintiffs: Robert Wisniewski  
Robert Wisniewski & Associates, PC  
225 Broadway  
New York, NY 10007  
(212) 267-2101

Counsel for Defendants: Andrea O'Connor (for the municipal defendants)  
New York City Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-1000

Jeffrey S. Ettenger (for defendant HDA)  
(representation withdrawn)  
Kaufman, Dolowich & Voluck, LLP  
135 Crossways Park Drive  
Suite 201  
Woodbury, NY 11797  
(516) 283-8702

2. Bland v. United States, No. 10-CV-3249 (ERK), 2012 WL 6962906 (E.D.N.Y. Sept. 18, 2012)

Counsel for Plaintiff: Georgia J. Hinde  
Law Office of Georgia J. Hinde  
1133 Broadway  
Suite 221

New York, NY 10010  
(212) 727-2717

Counsel for Defendant: Andrew E. Goldsmith  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
Kellog, Huber, Hansen, Todd, Evans & Figel  
P.L.L.C.  
Summer Square  
1615 M Street, NW  
Suite 400  
Washington, DC 20036  
(202) 326-7945

Nathan Reilly  
United States Attorney's Office  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201  
(718) 254-7000

3. Eurospark Industries, Inc. v. Underwriters at Lloyds Subscribing to Risk on Cover No. 97FA0071010A, 567 F. Supp. 2d 345 (E.D.N.Y. 2008)

Counsel for Plaintiff: Joshua L. Mallin  
Weg & Myers, PC  
Federal Plaza, 2nd Floor  
52 Duane Street  
New York, NY 10007  
(212) 227-4210

Counsel for Defendants: Daniel Joel Friedman (deceased)

Daniel C. Marotta  
Gabor & Marotta, LLC  
1878 Victory Boulevard  
Staten Island, NY 10314  
(718) 390-0555

4. In re United States for Orders (1) Authorizing Use of Pen Registers and Trap and Trace Devices, 515 F. Supp. 2d 325 (E.D.N.Y. 2007)

Counsel for the Government: Jed Davis  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
The Law Office of Jonathan E. Davis LLC

612 10th Street, #2  
Brooklyn, NY 11215  
(718) 344-2655

Scott Klugman  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
Levine Lee, LLP  
666 Fifth Avenue  
New York, NY 10103  
(212) 257-4030

5. Jacobs v. New York Foundling Hospital, 483 F. Supp. 2d 251 (E.D.N.Y. 2007)

Counsel for Plaintiffs: Jonathan A. Bernstein  
Levy, Davis & Maher, LLP  
39 Broadway  
Suite 1620  
New York, NY 10006  
(212) 371-0033

Counsel for Defendant: Joseph B. Cartafalsa  
Putney, Twombly, Hall & Hirson, LLP  
521 Fifth Avenue  
New York, NY 10175  
(212) 682-0020

6. Yanez v. City of New York, 29 F. Supp. 2d 100 (E.D.N.Y. 1998)

Counsel for Plaintiff: Thomas G. Sheehan (deceased)  
  
Amy Marion  
(formerly with Cheda & Sheehan)  
Barket, Marion, Epstein & Kearon, LLP  
666 Old Country Road, 7th Floor  
Garden City, NY 11530  
(516) 745-1500

Counsel for Defendants: Kevin J. Smith  
(formerly with the New York City Law  
Department)  
Sheppard Mullin, LLP  
30 Rockefeller Plaza  
New York, NY 10112  
(212) 634-3052



Warren Shaw  
New York City Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-1000

7. DeVito v. United States, No. 95-CV-2349 (JS), 1997 WL 1038120 (E.D.N.Y. Sept. 5, 1997)

Counsel for Plaintiffs: John J. O'Connell  
(formerly with Solomon, Zauderer, Ellenhorn,  
Frischer & Sharp)  
Dai & Associates, PC  
1500 Broadway  
New York, NY 10036  
(212) 730-8850

Counsel for Defendant: Charles P. Kelly  
United States Attorney's Office  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201  
(718) 254-7000

8. United States v. Zahrey, 963 F. Supp. 1273 (E.D.N.Y. 1997)

Counsel for Plaintiff: Martin E. Coffey  
United States Attorney's Office  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201  
(718) 254-7000

Counsel for Defendants: Joel B. Rudin (for defendant Mr. Zahrey)  
Law Offices of Joel B. Rudin  
200 West 57th Street  
Suite 900  
New York, NY 10019  
(212) 752-7600

Frank T. Geoly (for defendant Mr. Ingram)  
(solo practitioner)  
8118 13th Avenue, No. 1  
Brooklyn, NY 11228  
(718) 833-8365

Alan M. Nelson (for defendant Mr. Sandoval)  
(formerly with Garber, Klein & Nelson)  
Solomon Richman, PC  
3000 Marcus Avenue  
Suite 1E5  
Lake Success, NY 11042  
(516) 437-6443

Donald Duboulay (for defendant Mr. Mercado)  
Law Offices of Donald Duboulay  
305 Broadway, Suite 602  
New York, NY 10007  
(212) 966-3970

9. Hornell Brewing Co. v. Brady, 819 F. Supp. 1227 (E.D.N.Y. 1993)

Counsel for Plaintiffs: Lawrence I. Fox (retired)

Counsel for Defendants: Peter S. Modlin  
(formerly with the United States Department of  
Justice)  
Gibson Dunn  
555 Mission Street  
Suite 3000  
San Francisco, CA 94105  
(415) 393-8392

Stuart M. Gerson  
(formerly with the United States Department of  
Justice)  
Epstein, Becker & Green  
250 Park Avenue  
New York, NY 10177  
(212) 351-4808

10. P. & B. Marina, Ltd. v. Logrande, 136 F.R.D. 50 (E.D.N.Y. 1991)

Counsel for Plaintiffs: Richard S. Mills  
(formerly with Lambert & Weiss)  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
88 Pine Street, 24th Floor  
New York, NY 10005  
(212) 483-9490

Counsel for Defendants: Paul R. Levenson (deceased)

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

Bland v. United States, No. 13–CR–0746, 2014 WL 1673738 (2d Cir. Apr. 29, 2014) (cert. pending)

Carthen v. United States, 133 S. Ct. 837, 184 L. Ed. 2d 664 (2013)

McDonald v. Hammons, 523 U.S. 1073 (1998)

Lewis v. United States, 518 U.S. 322 (1996)

- 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.

During my 23-year tenure as a magistrate judge, I have issued approximately 1,500 reports and recommendations, opinions, and substantive orders. I searched all of my decisions on LexisNexis and Westlaw and my internal files to compile a list of any decisions that were reversed, rejected, or modified by a reviewing court. To the best of my knowledge, only 26 of these decisions were rejected or modified by a district judge or by the Second Circuit Court of Appeals, which represents a reversal or modification rate of only 1.7%.

In Cadle Co. v. Livingston, I recommended that the district court grant the plaintiff's motion for default judgment and award damages. The district court modified my calculation of prejudgment interest, but adopted my other recommendations. My report and recommendation is available at Cadle Co. v. Livingston, No. 13–CV–3799, 2014 WL 1874857 (E.D.N.Y. Jan. 15, 2014). The district court's decision is available at Cadle Co. v. Livingston, No. 13–CV–3799, 2014 WL 1874872 (E.D.N.Y. May 9, 2014).

In Broca v. Giron, I recommended that the district court grant a petition under the Hague Convention on the Civil Aspects of International Child Abduction and order repatriation of the petitioner's two children to Mexico. The district court did not adopt my recommendation and denied the petition. My report and recommendation is available at Broca v. Giron, No. 11–CV–5818, 2012 WL 7660123 (E.D.N.Y. Sept. 25, 2012). The district court's decision is available at Broca v. Giron, No. 11–CV–5818, 2013 WL 867276 (E.D.N.Y. Mar. 7, 2013).

In Osram Sylvania Inc. v. Unalite Electric & Lighting LLC, I recommended that the district court grant the plaintiff's motion for default and award the plaintiff damages. The district court modified the end date of the prejudgment interest calculation, but adopted my other recommendations. My report and

recommendation is available at Osram Sylvania Inc. v. Unalite Elec. & Lighting LLC, No. 11–CV–3596, 2012 WL 3877798 (E.D.N.Y. Aug. 7, 2012). The district court’s decision is available at Osram Sylvania Inc. v. Unalite Elec. & Lighting LLC, No. 11–CV–3596, 2012 WL 3877796 (E.D.N.Y. Sept. 6, 2012).

In Spells v. Lee, a pro se prisoner moved to amend his habeas petition to include ineffective assistance of trial and appellate counsel claims and to stay his petition until he was able to exhaust his state law remedies on these additional claims. I recommended that the district court deny the petitioner’s motions to amend and to stay the proceedings. The district court allowed the petitioner to amend his complaint to add an ineffective assistance of appellate counsel claim, but adopted my other recommendations. My report and recommendation is available at Spells v. Lee, No. 11–CV–1680, 2012 WL 3027540 (E.D.N.Y. May 23, 2012). The district court’s decision is available at Spells v. Lee, No. 11–CV–1680, 2012 WL 3027865 (E.D.N.Y. July 23, 2012).

In United States v. Dupree, the defendant challenged the government’s showing of probable cause that seized bank accounts were, in fact, forfeitable, and, thus, could not be used by the defendant to pay his defense counsel. I recommended that the district court deny the defendant’s request to release all of the funds in the subject accounts. The district court adopted my recommendation in part, and permitted the government to retain 20% of the funds in the accounts. My report and recommendation is available at United States v. Dupree, No. 10–CR–627, 2011 WL 3235624 (E.D.N.Y. June 2, 2011). The district court’s decision is available at United States v. Dupree, No. 10–CR–627, 2011 WL 3235637 (E.D.N.Y. July 27, 2011).

In Greystone Bank v. Tavaréz, I recommended that the district court deny the defendants’ motion to dismiss for lack of subject matter jurisdiction. The district court adopted my recommendation to deny the motion, but granted the defendants leave to renew their motion upon completion of jurisdictional discovery. My report and recommendation is available at Greystone Bank v. Tavaréz, No. 09–CV–5192, 2010 WL 3311835 (E.D.N.Y. June 10, 2010). The district court’s decision is available at Greystone Bank v. Tavaréz, No. 09–CV–5192, 2010 WL 3325203 (E.D.N.Y. Aug. 19, 2010).

In Gesualdi v. Hardin Contracting, Inc., I recommended that the district court grant the plaintiffs’ motion for default judgment and award damages. The district court adopted my recommendation, but reduced the total damages award. My report and recommendation is available at Gesualdi v. Hardin Contracting, Inc., No. 09–CV–2660, 2010 WL 1048821 (E.D.N.Y. Feb. 16, 2010). The district court’s decision is available at Gesualdi v. Hardin Contracting, Inc., No. 09–CV–2660, 2010 WL 1048818 (E.D.N.Y. Mar. 19, 2010).

In Graham v. City of New York, I recommended that the district court grant the defendants’ motion for summary judgment as to the plaintiff’s retaliation, national origin and state law claims, and deny the motion as to the plaintiff’s disparate

treatment and municipal liability claims. The district court granted summary judgment as to the plaintiff's municipal liability claim, but adopted my other recommendations. My report and recommendation is available at Graham v. City of New York, No. 05-CV-5428, 2009 WL 909622 (E.D.N.Y. Mar. 10, 2009). The district court's decision is available at Graham v. City of New York, No. 05-CV-5428, 2009 WL 909620 (E.D.N.Y. Mar. 31, 2009).

In Cullen v. City of New York, the defendants moved to dismiss the plaintiff's First Amendment retaliation and related state law claims. I recommended that the district court grant the defendants' motion. The district court rejected my recommendation, finding that questions remained as to whether the plaintiff's speech was constitutionally protected. My report and recommendation is available at Cullen v. City of New York, No. 07-CV-3644, 2008 WL 5159814 (E.D.N.Y. July 8, 2008). The district court's decision is available at Cullen v. City of New York, No. 07-CV-3644, 2008 WL 5159815 (E.D.N.Y. Dec. 9, 2008).

In Liberty Mutual Insurance Co. v. Priceless Transportation, Inc., I recommended that the district court grant the plaintiff's motion for default judgment and award damages against all three defendants. The district court adopted my recommendations as to two of the defendants, but dismissed the case against the third defendant. A copy of my report and recommendation is supplied. The district court's decision is available at Liberty Mut. Ins. Co. v. Priceless Transp., Inc., No. 07-CV-881, 2008 WL 4186230 (E.D.N.Y. Sept. 9, 2008).

In Perez v. Siragusa, I recommended that the district court dismiss this civil rights action with prejudice and award attorney's fees to the defendants. The district court reduced the total attorneys' fees award from \$8,140 to \$6,287, but adopted my other recommendations. A copy of my report and recommendation is supplied. The district court's decision is available at Perez v. Siragusa, No. 05-CV-4873, 2008 WL 2704402 (E.D.N.Y. July 3, 2008).

In LaBarbera v. D. & R. Materials, Inc., the defendant employer failed to make required contributions to employee benefit plans. I issued a report and recommendation on the issue of damages for the plaintiffs' motion for default judgment. The district court disagreed with my interpretation of the parties' Trust Agreement, which affected the damages award for two of the months at issue. The district court adopted my other damages recommendations. A copy of my report and recommendation is supplied. The district court's decision is available at LaBarbera v. D. & R. Materials, Inc., 588 F. Supp. 2d 342 (E.D.N.Y. 2008).

In LaBarbera v. Torretta Trucking, Inc., I recommended that the district court award damages and attorney's fees against the defaulting defendant. The district court increased the attorney's fees award by \$932, but adopted my other recommendations. My report and recommendation is available at LaBarbera v. Torretta Trucking, Inc., No. 06-CV-6642, 2007 U.S. Dist. LEXIS 101389 (E.D.N.Y. Oct. 11, 2007). The district court's decision is available at LaBarbera

v. Torretta Trucking, Inc., No. 06-CV-6642, 2007 U.S. Dist. LEXIS 101392 (E.D.N.Y. Nov. 30, 2007).

In Baruch v. Healthcare Receivable Management, Inc., I recommended that the district court award damages against the defaulting defendant and deny the plaintiff's request for attorney's fees and costs. The district court awarded attorney's fees and costs, but adopted my other recommendations. My report and recommendation is available at Baruch v. Healthcare Receivable Mgmt., Inc., No. 05-CV-5392, 2007 WL 3232091 (E.D.N.Y. Sept. 11, 2007). The district court's decision is available at Baruch v. Healthcare Receivable Mgmt., Inc., No. 05-CV-5392, 2007 WL 3232090 (E.D.N.Y. Oct. 30, 2007).

In T.Z. v. City of New York, the district court reversed my discovery ruling that denied the plaintiff's request to photograph the classroom where the incident at issue occurred. The district court's decision is reported at T.Z. v. City of New York, No. 05-CV-5111, 2007 WL 2077730 (E.D.N.Y. July 18, 2007).

In Everson v. New York City Transit Authority, an employment discrimination case, I recommended that the district court grant the defendants' motion for summary judgment as to all claims except for the plaintiff's retaliation claim. The district court denied the defendants' motion for summary judgment as to one of the plaintiff's failure to promote claims, but adopted my other recommendations. My report and recommendation and the district court's decision are available at Everson v. New York City Transit Auth., No. 02-CV-1121, 2007 WL 539159 (E.D.N.Y. Feb. 16, 2007).

In Scott v. John Doe Corp., I was referred a default judgment for a damages inquest. I initially recommended a damages award of \$10,154 against the defaulting defendants, and the district court referred the matter back to me to hear testimony from the plaintiff's physician. After holding a hearing, I recommended the same damages award, which included \$7,000 for pain and suffering. The district court adopted my recommendation in part, concluding that the plaintiff was entitled to \$10,000 for pain and suffering. Copies of my reports and recommendations are supplied. The district court's decision is available at Scott v. John Doe Corp., No. 01-CV-5910, 2006 WL 2335542 (E.D.N.Y. Aug. 10, 2006).

In Kingvision Pay-Per-View, Ltd. v. Penaloza, I recommended that the district court grant the plaintiff's motion for default judgment and award damages, attorney's fees, and costs. The district court reduced the award of costs by \$450, but adopted my other recommendations. My report and recommendation is available at Kingvision Pay-Per-View, Ltd. v. Penaloza, No. 05-CV-1928, 2006 U.S. Dist. LEXIS 16921 (E.D.N.Y. Mar. 6, 2006). The district court's decision is available at Kingvision Pay-Per-View, Ltd. v. Penaloza, No. 05-CV-1928, 2006 U.S. Dist. LEXIS 18350 (E.D.N.Y. Apr. 11, 2006).

In Kingvision Pay-Per-View Ltd. v. Lalaleo, I recommended that the district court grant the plaintiff's motion for default judgment and award the plaintiff \$13,575 in damages, attorney's fees, and costs. The district court reduced the award of costs by \$100, but adopted my other recommendations. A copy of my report and recommendation is supplied. The district court's decision is available at Kingvision Pay-Per-View Ltd. v. Lalaleo, 429 F. Supp. 2d 506 (E.D.N.Y. 2006).

In Sutton v. New York City Transit Authority, I decided a charging lien dispute after the plaintiff's counsel withdrew from representation of the plaintiff. I denied the plaintiff's request for return of her retainer payments and awarded counsel expenses and a lien. The district court affirmed my decision. The Second Circuit Court of Appeals affirmed my decision regarding the retainer payments and expenses, but vacated my award of a charging lien. Copies of my decision and the district court's decision are supplied. The Second Circuit Court of Appeals' decision is available at Sutton v. New York City Transit Auth., 462 F.3d 157 (2d Cir. 2006).

In Rodriguez-Freytas v. New York City Transit Authority, I recommended that the district court grant the plaintiff attorney's fees after the plaintiff settled her claims. The district court adopted my report and recommendation. The Second Circuit Court of Appeals vacated the fees judgment and remanded the action for further proceedings. A copy of my report and recommendation is supplied. The Second Circuit Court of Appeals' decision is available at Rodriguez-Freytas v. New York City Transit Auth., 95 F. App'x 392 (2d Cir. 2004).

In Prince v. Dicker, I recommended that the district court dismiss the pro se plaintiff's complaint and require him to seek the court's permission before filing any additional lawsuits concerning the subject matter of the litigation. The district court adopted my report and recommendation and imposed the recommended filing injunction. The Second Circuit Court of Appeals affirmed dismissal of the plaintiff's claim, but reversed the imposition of the filing injunction. A copy of my report and recommendation is supplied. The Second Circuit Court of Appeals' decision is available at Prince v. Dicker, 29 F. App'x 52 (2d Cir. 2002).

In Parker v. Time Warner Entertainment Co., I recommended that the district court grant the defendants' motion to deny the plaintiffs' class certification. The district court adopted my report and recommendation. On appeal, the Second Circuit Court of Appeals vacated the denial of class certification and remanded for further proceedings. My report and recommendation is available at Parker v. Time Warner Entm't Co., No. 98-CV-04265, 2000 WL 34430454 (E.D.N.Y. Oct. 5, 2000). The district court's decision is available at Parker v. Time Warner Entm't Co., 198 F.R.D. 374 (E.D.N.Y. 2001). The Second Circuit Court of Appeals' decision is available at Parker v. Time Warner Entm't Co., 331 F.3d 13 (2d Cir. 2003).

In McNulty v. Prudential-Bache Securities, I recommended that the district court grant summary judgment on all of the plaintiff's claims, except the plaintiff's Jurors' Act claim. The district court granted summary judgment on the Jurors' Act claim, but adopted my other recommendations. A copy of my report and recommendation is supplied. The district court's decision is available at McNulty v. Prudential-Bache Secs., 871 F. Supp. 567 (E.D.N.Y. 1994).

In LeGrand v. New York City Transit Authority, I recommended that the district court grant class certification and consolidation. The district court denied the motion for class certification, but adopted my other recommendation. A copy of my report and recommendation is supplied. The district court's decision is available at LeGrand v. New York City Transit Auth., No. 95-CV-333, 1999 U.S. Dist. LEXIS 8020 (E.D.N.Y. May 26, 1999).

In McDonald v. Hammons, I found that in considering the defendants' motion to disqualify the plaintiffs' counsel, a potential conflict may exist between the McDonald parents' interest in maintaining their innocence of abuse charges and the children's interest in reporting any abuse that may have occurred. I denied the defendants' disqualification motion and ordered that a guardian ad litem be appointed to represent the children. The plaintiffs appealed my decision to the district court and the district court adopted my order, but limited the appointment of the guardian only for purposes of determining whether a conflict did, in fact, exist. A copy of my report and recommendation is supplied. The district court's decision is available at McDonald v. Hammons, 936 F. Supp. 86 (E.D.N.Y. 1996). The Second Circuit Court of Appeals dismissed the plaintiffs' appeal. McDonald v. Hammons, 129 F.3d 114 (2d Cir. 1997). The Supreme Court denied certiorari. McDonald v. Hammons, 523 U.S. 1073 (1998).

- 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.

As a magistrate judge, I issue orders on non-dispositive matters or orders on dispositive matters when the parties consent to my jurisdiction or the district judge refers a matter to me for a report and recommendation. Most of my non-dispositive orders address discovery disputes, adjusting discovery schedules, and other miscellaneous civil motions. I generally issue hundreds of these orders each year. Of the approximately 1,500 substantive decisions I have issued, including reports and recommendations, opinions, and orders, approximately 20% of these decisions are available on electronic databases such as Westlaw and Lexis. Many of these decisions that are not found on Westlaw and Lexis are available, along with other orders that I have issued, through the Eastern District of New York's Electronic Case Filing ("ECF") system. In addition, case files are also available through the Eastern District Clerk's Office or the National Archives Records Administration.

- 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.

In re U.S. for Orders (1) Authorizing Use of Pen Registers and Trap and Trace Devices, 515 F. Supp. 2d 325 (E.D.N.Y. 2007)

United States v. Cohen, 372 F. Supp. 2d 340 (E.D.N.Y. 2005)

Sparman v. Edwards, 26 F. Supp. 2d 450 (E.D.N.Y. 1997)

Hornell Brewing Co. v. Brady, 819 F. Supp. 1227 (E.D.N.Y. 1993)

United States v. Velazquez, No. 92-CR-1265 (SJ) (E.D.N.Y.). A copy of my report and recommendation was previously supplied in response to Question 13c.

P. & B. Marina, Ltd. v. Logrande, 136 F.R.D. 50 (E.D.N.Y. 1991)

- 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 sat by designation on a federal court of appeals.

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.

In keeping with the Code of Conduct for United States Judges and 28 U.S.C. § 455, I review every new file assigned to me to ensure that no conflict of interest exists. I maintain a standing recusal list with the Clerk's Office. Currently on my recusal list are my husband, William G. Ballaine, and the other lawyers in his firm, Landman,

Corsi, Ballaine & Ford, P.C., and any case in which either my husband or I have a financial interest. I also recuse myself in any case where I have a significantly close relationship with counsel, parties, or witnesses (family, business, or social). In the event of uncertainty, I err on the side of disqualification. I have not maintained a list of cases in which I have recused myself *sua sponte*.

I have undertaken a search of all my decisions on LexisNexis and Westlaw and my internal files to locate any motions for recusal and decisions related thereto. To the best of my knowledge, only two attorneys have filed such an application. The following are the only two recusal motions or applications:

In Holcombe v. U.S. Airways, Nos. 03-CV-4785 (SLT), 08-CV-1593 (SLT) (E.D.N.Y.), the plaintiff's counsel filed a request for my recusal, claiming I pre-decided his request for a charging and retaining lien after his client terminated his representation. I determined that counsel's arguments for recusal did not warrant my removal from these cases. However, I recused myself *sua sponte* on a different ground, concluding that recusal was appropriate because I would have been required to act as the fact-finder concerning the charging lien after holding numerous settlement conferences with the parties on that issue.

In United Newport Associations v. J.D. Greene Machine Co., No. 98-CV-6810 (JMA) (E.D.N.Y.), the defense counsel filed a request for my recusal claiming that comments I made during the course of the proceeding demonstrated bias against his client. I denied the motion finding that among other things, none of my actions demonstrated a deep-seated favoritism of the plaintiffs or antagonism toward the defendant.

**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.

I have not held any public office other than my current judicial office.

- 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 not held any offices in or rendered service to any political party or election committee. I have not held a position or played a role in any political campaigns.

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 never served as a law clerk to a judge.

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

I have never 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.

1979 – 1981  
 U.S. Department of Justice  
 Criminal Division  
 950 Pennsylvania Avenue, NW  
 Washington, D.C. 20530  
 Honors Program–Trial Attorney

1982 – 1990  
 United States Attorney's Office  
 Eastern District of New York  
 271 Cadman Plaza East  
 Brooklyn, New York 11201  
 Deputy Chief, Criminal Division (1987 – 1990)  
 Chief, Business and Securities Fraud Section (1987 – 1990)  
 Deputy Chief, Narcotics Section (1985 – 1986)  
 Assistant United States Attorney (1982 – 1990)

- 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 never served as a mediator or arbitrator in private practice.

b. Describe:

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

From 1979 to 1981, I was an attorney in the Honors Program in the Criminal Division of the United States Department of Justice. At the time, the Honors Program entailed rotating through various sections of the Criminal Division to afford the broadest experience. During those two years, I spent several months writing criminal appellate briefs and arguing the appeals in various Federal Courts of Appeals. I also spent four months in the United States Attorney's Office for the District of Columbia, where I tried ten misdemeanor cases. Thereafter, in April and May of 1981, I was detailed to the United States Attorney's Office for the Southern District of Florida, where I tried four felony narcotics cases. Upon return to the Department of Justice, I was assigned to the Fraud Section, where I investigated and prosecuted a major fraud case in the Eastern District of Pennsylvania.

In 1982, I became an Assistant United States Attorney in the Criminal Division of the United States Attorney's Office for the Eastern District of New York. I spent the first two years in General Crimes, where I prosecuted a variety of federal crimes, including narcotics cases, firearms cases, counterfeit currency, and postal thefts. In 1984, I joined the Narcotics Section, where I investigated and prosecuted major narcotics cases. In 1985, I was promoted to Deputy Chief of the Narcotics Section. In 1987, I was elevated to Deputy Chief of the Criminal Division where I supervised the Business and Securities Fraud Section and participated in general supervision of the Criminal Division. During that time, I continued to handle my own cases, many of which involved financial crimes and white collar fraud.

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

As a federal prosecutor, I always represented the interests of the United States. My practice was devoted exclusively to criminal law.

- 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.

100% of my practice was in litigation. Throughout my tenure at the Department of Justice and the United States Attorney's Office, I frequently appeared in court.

- i. Indicate the percentage of your practice in:
- |                             |      |
|-----------------------------|------|
| 1. federal courts:          | 100% |
| 2. state courts of record:  | 0%   |
| 3. other courts:            | 0%   |
| 4. administrative agencies: | 0%   |

ii. Indicate the percentage of your practice in:

- |                          |      |
|--------------------------|------|
| 1. civil proceedings:    | 0%   |
| 2. criminal proceedings: | 100% |

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 41 cases to verdict, judgment, or final decision. I was the sole counsel on 35 trials and co-counsel on six trials. I have argued 13 cases in Courts of Appeals.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 99% |
| 2. non-jury: | 1%  |

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 of the United States.

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:

- the date of representation;
- the name of the court and the name of the judge or judges before whom the case was litigated; and
- the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

These cases are listed in reverse chronological order.

- United States v. Jacobowitz, No. 88-CR-298 (ERK) (E.D.N.Y.)

This was a credit card fraud conspiracy prosecution. The defendant was indicted on five counts of credit card fraud. As lead prosecutor, I supervised the

investigation, conducted the grand jury presentation, and handled the suppression hearing and trial. The suppression hearing involved a lengthy hearing pursuant to U.S. v. Wade, 388 U.S. 218 (1967), regarding an identification issue as well as the use of a handwriting expert. The defendant was convicted after trial, and the Second Circuit Court of Appeals affirmed the conviction. See United States v. Jacobowitz, 877 F.2d 162 (2d Cir. 1989). I was sole counsel during the trial, and I wrote and argued the appeal. The case was litigated before the Honorable Edward R. Korman.

Dates of Representation: 1987 – 1989 (approximately)

Counsel for Defendant: Andrew Citron (trial counsel)  
(formerly a solo practitioner)  
Revaz & Chachanashvili Law Group, PLLC  
108–17 2nd Avenue  
Suite 2E  
Forest Hills, NY 11375  
(718) 997-8255

Adina Schwartz (appellate counsel)  
(formerly with Legal Aid, Federal Defenders  
Services Unit)  
John Jay College of Criminal Justice  
899 10th Avenue  
New York, NY 10019  
(212) 237-8402

2. United States v. Rabuffo, 88–CR–178 (TCP) (E.D.N.Y.) and related cases

This was a multi-defendant, multi-agency prosecution of a large-scale financial fraud that occurred from 1985 to 1987. The defendants, many of whom were executives of financial institutions, participated in a \$30 million fraud in which they obtained equipment loans based on false collateral. The investigation ultimately resulted in indictments of ten defendants on charges of mail, wire, tax, and bank fraud. Among the defendants were a bank president, several senior bank officials, three chief executive officers, and two public officials. All entered guilty pleas before trial except for one who pled guilty mid-trial. I was the co-lead prosecutor on this case and the related cases. I was involved in all phases of the case from the investigation through the sentencing proceedings for most of the defendants. The case was litigated before the Honorable Thomas C. Platt.

Dates of Representation: 1987 – 1990 (approximately)

Co-counsel: Charles W. Gerber  
(formerly with the United States Attorney's Office,  
Eastern District of New York)

CIBC World Markets Corporation  
425 Lexington Avenue, 3rd Floor  
New York, NY 10017  
(212) 667-8300

Counsel for Defendants: Gavin W. Scotti (for defendant Mr. Rabuffo)  
(formerly with Segal & Hundley)  
(solo practitioner)  
260 Madison Avenue  
New York, NY 10016  
(212) 490-1840

Paul B. Bergman (for defendant Mr. Rosally)  
Law Office of Paul B. Bergman, PC  
950 Third Avenue  
New York, NY 10022  
(212) 355-7711

Thomas Fitzpatrick (for defendant Mr. Siegel)  
500 Fifth Avenue, 33rd Floor  
New York, NY 10110  
(212) 930-1290

Jonathan L. Rosner (deceased) (for defendant Mr.  
Horowitz)

3. United States v. Arango-Correa, No. 86-CR-374 (DLD) (E.D.N.Y.)

This was a narcotics prosecution in which the defendants were charged with importation of over 500 pounds of cocaine. The cocaine was professionally hidden in large commercial paper shipments imported from Colombia. I was the sole prosecutor on the case, which involved extensive Title III electronic surveillance of the defendants' warehouse in Queens, New York. My responsibilities included drafting the Title III applications and search warrants, as well as handling the grand jury proceedings and trial. There was a lengthy pretrial audibility hearing regarding the electronic surveillance. The defendants were convicted at trial before the Honorable Dominick L. DiCarlo, Jr., and the Second Circuit Court of Appeals affirmed the convictions. See United States v. Arango-Correa, 851 F.2d 54 (2d Cir. 1988). I did not handle the appeal.

Dates of Representation: 1986 – 1987 (approximately)

Counsel for Defendants: Thomas Concannon (deceased) (trial counsel for  
defendant Mr. Arango-Correa)

Hon. Abraham Clott (appellate counsel for  
defendant Mr. Arango-Correa)  
(formerly with Legal Aid, Federal Defenders  
Services Unit)  
New York City Criminal Court, New York County  
100 Centre Street  
New York, NY 10013  
(646) 386-4500

Lawrence V. Carra (for defendant Mr. Pulido)  
Law Office of Lawrence V. Carra  
114 Old Country Road  
Suite 212  
Mineola, NY 11501  
(516) 742-1135

4. United States v. Idris, No. 85-CR-557 (EHN) (E.D.N.Y.)

This case involved an international narcotics importation ring charged with smuggling heroin from Pakistan's Northwest Province through New York City to Detroit, Michigan. The investigation entailed multiple wiretaps in New York and Detroit. Four defendants were indicted and two, Mr. Idris and Mr. Shilson, were jointly tried before the Honorable Eugene H. Nickerson. The lead defendant, Mr. Idris, pled guilty mid-trial and the remaining defendant, Mr. Shilson, was convicted after trial. I handled this case on behalf of the government from beginning to end. I directed the investigation, drafted the charging instrument, litigated the motions, and tried the case. I also handled Mr. Shilson's appeal. His conviction was affirmed by the Second Circuit Court of Appeals. See United States v. Shilson, 831 F.2d 284 (2d Cir. 1987).

Dates of Representation: 1985 – 1987 (approximately)

Counsel for Defendants: Peter H. Moray (for defendant Mr. Idris)  
(solo practitioner)  
(current business contact information unavailable)

Wallace Glendening (for defendant Mr. Shilson)  
(formerly with Jaffe, Snider, Raitt, Garratt &  
Heurer)  
Walton & Donnelly, P.C.  
535 Griswold Street  
Suite 1550  
Detroit, MI 48226  
(313) 963-8989



5. United States v. Guidice, No. 85-CR-28 (CPS) (E.D.N.Y.)

This was a narcotics prosecution involving the Guidice family, who were members of the Gambino organized crime family. The Guidice family ran a heroin and cocaine distribution operation out of their home in Ridgewood, Queens. The investigation entailed Title III electronic surveillance and an undercover operation. The defendants entered guilty pleas before the Honorable Charles P. Sifton. That investigation then led to a spinoff undercover operation, which ultimately resulted in the indictment of 15 additional defendants, including a Belgian diplomat who smuggled ten kilograms of heroin into the United States. My representation included directing the investigation, drafting the charging instruments, as well as handling all motion practice and the trial. In July 1985, I received a commendation from the Director of the Federal Bureau of Investigation in recognition of my investigation and prosecution of the case.

Dates of Representation: 1984 – 1985 (approximately)

Counsel for Defendants: Gerard M. Marrone (for defendant Mr. Guidice)  
Law Office of Gerard M. Marrone, PC  
131 Mineola Boulevard  
Suite 200  
Mineola, NY 11501  
(516) 739-1777

Thomas H. Nooter (for defendant Mrs. Guidice)  
Freeman, Nooter & Ginsberg  
75 Maiden Lane  
Suite 503  
New York, NY 10038  
(212) 608-0808

6. United States v. Fama, No. 84-CR-298 (CPS) (E.D.N.Y.)

This case involved a family charged with a narcotics distribution conspiracy. A husband and wife, along with their four adult children, were charged with violations of federal narcotics laws. The prosecution resulted from an undercover operation that led to the execution of a search warrant at the family's residence in Borough Park, Brooklyn. The search warrant revealed a stash of eight pounds of cocaine, 10 pounds of heroin, 100 pounds of marijuana, 28 guns, and \$3.3 million in cash. The husband pled guilty to conducting a continuing criminal enterprise. His wife and the four children went to trial before the Honorable Charles P. Sifton. All but the youngest child were found guilty. The Second Circuit Court of Appeals affirmed the convictions. See United States v. Fama, 788 F.2d 2 (2d Cir. 1985). I handled this case on behalf of the government from beginning to end. I directed the investigation, drafted the search warrants and charging instruments, litigated the motions, and tried the case. During the action, the

government successfully appealed Judge Sifton's grant of a suppression motion, and the case became Circuit precedent for the proposition that the fact that an innocent explanation may be consistent with the facts as alleged does not negate probable cause. See United States v. Fama, 758 F.2d 834 (2d Cir. 1985). I did not handle the appeals.

Dates of Representation: 1984 – 1985 (approximately)

Counsel for Defendants: Barry I. Slotnick (for defendant Mr. Joseph Fama)  
(formerly with Barry Slotnick PC)  
Buchanan, Ingersoll & Rooney, PC  
1290 Avenue of the Americas, 30th Floor  
New York, NY 10104  
(212) 440-4444

Bruce Cutler (for defendant Ms. Toni Ann Fama)  
(formerly with the Law Offices of Gerald L. Shargel)  
Cutler & Parlatore, PLLC  
260 Madison Avenue  
New York, NY 10016  
(212) 679-6669

Lawrence Hochheiser (for defendant Mr. Joseph Fama, Jr.)  
(formerly with Hochheiser & Aronson)  
Hochheiser & Hochheiser, LLP  
15 Maiden Lane  
Suite 1500  
New York, NY 10038  
(212) 689-4343

Frank Lopez (deceased) (for defendant Ms. Barbara Fama)

Mark A. Landsman (deceased) (for defendant Mr. Gary Fama)

David A. DePetris (deceased) (for defendant Mr. Daniel Fama)

7. United States v. Mullin, No. 83–CR–239 (HB) (E.D.N.Y.)

This prosecution involved a ring of largely British expatriates engaged in the importation and distribution of kilogram quantities of heroin and cocaine. The defendants included a famous author, a British Earl, and a rock musician, among

others. The investigation began with the arrest of two couriers smuggling cocaine and heroin through John F. Kennedy International Airport. Through the use of cooperating witnesses, the case grew into a large Title III investigation that ultimately led to the arrests of 15 defendants. The lead defendant, Ms. Mullin, pled guilty to conducting a continuing criminal enterprise. The remaining defendants eventually entered guilty pleas as well. I was the co-lead prosecutor on the case. My responsibilities included preparing numerous electronic surveillance applications and drafting multiple search warrants, charging instruments, and legal submissions to the court. I also conducted the plea and sentencing proceedings before the Honorable Henry Bramwell. In October 1983, I received a commendation from the Special Agent in Charge of the Drug Enforcement Administration in recognition of my investigation and prosecution of the case.

Dates of Representation: 1983 – 1986 (approximately)

Co-Counsel: Michael H. Gold  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
(solo practitioner)  
350 Fifth Avenue  
No. 4400  
New York, NY 10118  
(212) 838-0699

Counsel for Defendants: Ira London (for defendant Ms. Mullin)  
(formerly with London & Lopez)  
London & Robin  
99 Park Avenue  
Suite 1600  
New York, NY 10016  
(212) 683-8000

Andrew J. Maloney (for defendant Mr. Cohn)  
(formerly with Maloney, Viviani & Higgins)  
De Feis, O'Connell & Rose, PC  
500 Fifth Avenue, 26th Floor  
New York, NY 10110  
(212) 768-1000

Kenneth J. Kaplan (for defendant Mr. Cohn)  
Kaplan & Katzberg  
767 Third Avenue, 26th Floor  
New York, NY 10017  
(212) 750-3100

Gary Naftalis (for defendant Ms. Anday)  
Kramer, Levin & Frankel, LLP  
1177 Avenue of the Americas  
New York, NY 10036  
(212) 715-9238

Dominic Amorosa (for defendant Mr. Albano)  
(solo practitioner)  
95 Worth Street  
Suite 10J  
New York, NY 10013  
(212) 406-7000

Edward M. Shaw (for defendant Mr. Gershuny)  
(formerly with Stillman, Friedman, and Shaw PC)  
Edward M. Shaw Law Office  
420 Fifth Avenue  
No. 25  
New York, NY 10018  
(212) 703-5430

Kenneth E. Ramseur (for defendant Mr. Gelb)  
Kenneth E. Ramseur Law Offices  
299 Broadway  
New York, NY 10007  
(212) 964-1070

Thomas Puccio (deceased) (for defendant Mr.  
Jermyn)

8. United States v. Sanchez-Persia, No. 82-CR-305 (CPS) (E.D.N.Y.)

This case involved a narcotics smuggling operation conducted by diplomats from the Dominican Republic. One defendant, Mr. Sanchez-Persia, was a Dominican Vice Consul, and another defendant, Mr. Soriano, was the First Secretary to the Dominican Mission to the United Nations. The remaining defendant, Mr. Pena, is a fugitive. The defendants were charged with using diplomatic security channels to bypass airport security and smuggle drugs into the United States. Both Mr. Sanchez-Persia and Mr. Soriano were found guilty at trial before the Honorable Charles P. Sifton. I represented the government throughout this matter. My representation included directing the investigation, drafting the charging instruments, as well as handling all motion practice and the trial.

Dates of Representation: 1982 (approximately)

Counsel for Defendants: Mark S. Arisohn (for defendant Mr. Sanchez-Persia)  
 (formerly with Arkin & Arisohn PC)  
 Labaton Sucharow, LLP  
 140 Broadway  
 New York, NY 10005  
 (212) 907-0840

Jeffrey Simms (for defendant Mr. Soriano)  
 Jeffrey Simms & Associates  
 293 Passaic Street  
 Passaic, NJ 07055  
 (973) 471-5240

9. United States v. Crabtree, 692 F.2d 750 (3d Cir. 1982)

This was a case I handled in 1981 while I was in the Fraud Section at the Department of Justice. It involved a large-scale consumer fraud in which hundreds of victims were induced to purchase vending machines and accompanying prime locations with the false promise of enormous profits. The defendants, officers of the corporation, found their victims through a cold-calling telephone campaign. The defendants were charged with mail and wire fraud. Several of the defendants entered guilty pleas before trial. The main defendant, Mr. Crabtree, went to trial and was convicted before the Honorable James T. Giles, United States District Judge for the Eastern District of Pennsylvania. The conviction was affirmed by the Third Circuit Court of Appeals. I co-prosecuted this case and related cases. I directed the investigation and handled all phases of the prosecution, including motion practice, trial, and sentencing, but I did not handle the appeal.

Dates of Representation: 1981 (approximately)

Co-Counsel: Sherri L. Berthrong  
 United States Attorney's Office  
 District of Columbia  
 555 Fourth Street, NW  
 Washington, D.C. 20001  
 (202) 252-7566

Counsel for Defendants: John Rogers Carroll  
 Carroll & Carroll  
 601 Walnut Street  
 No. 1150  
 Philadelphia, PA 19106  
 (215) 925-1596

10. United States v. Tamargo, 637 F.2d 346 (5th Cir. 1981).

This was an appeal from a conviction in a corruption case from the Southern District of Florida. The appeal involved five issues: the constitutionality of 18 U.S.C. § 665 as applied to funds provided under the Comprehensive Employment and Training Act of 1973, Pub. L. No. 93-203, 76 Stat. 23 (now the Job Training Partnership Act of 1982, 29 U.S.C. § 1501, *et seq.*); the sufficiency of the evidence; prosecutorial misconduct; whether a hearsay ruling was appropriate; and whether a charge given to the jury was appropriate. The conviction was affirmed by the Fifth Circuit Court of Appeals (now the Eleventh Circuit Court of Appeals). I served as appellate counsel in this case during my assignment in the Criminal Appellate Section of the Department of Justice. I wrote the brief and argued the appeal in the Fifth Circuit Court of Appeals.

Dates of Representation: 1980 – 1981 (approximately)

Counsel for Defendants: Walter M. Lopez (for defendant Mr. Tamargo)  
Lopez Mediation  
200 North Pierce Street  
Suite 3  
Tampa, FL 33602  
(813) 229-1213

Rhea F. Law (for defendant Ms. Bowling Scott)  
Buchanan, Ingersoll & Rooney, PC  
501 East Kennedy Boulevard  
Suite 1700  
Tampa, FL 33602  
(813) 222-1179

Paul B. Johnson (deceased) (for defendant Mr. Angelo Cannata)

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.)

In March 2013, I became a Supervising Judge for the Special Options Services (“SOS”) Program of our Court’s Pretrial Services Office. The SOS program, originally founded in 2000, is an alternative to pretrial detention and is designed primarily for non-violent young adult defendants. Founded on the premise that many young offenders may go on to lead law-abiding lives, the SOS Program provides the Court with the discretion to offer

the program instead of pretrial detention. Participants receive intensive supervision from me, Magistrate Judge Cheryl Pollak, and Pretrial Services Officers. The supervision includes: attending monthly meetings where we receive a written report from pretrial services about the participant's progress, providing encouragement to participants regarding their life goals, and providing accountability where participants fail to meet their monthly goals or fail to abide by the Program's stringent requirements. In addition, participants are given access to education, job training, and counseling. By providing young defendants with structure and supervision, the SOS Program aims to reduce recidivism rates, increase engagement in productive behaviors, and encourage better life choices. Those participants who successfully complete the SOS Program may receive a significant reduction in their custodial sentence or the imposition of a non-custodial sentence.

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.

From 1988 to 1991, I was a visiting instructor at the Winter Intercession of the National Institute of Trial Advocacy at Harvard Law School. During this three week course, I taught the basics of trial advocacy to second and third year law students. I do not have syllabi for these classes.

Sometime during the 1990s, I was a visiting instructor for two annual sessions of the Cardozo Law School Trial Advocacy Program. I do not have syllabi for these sessions.

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 do not have plans, commitments, or agreements to pursue outside employment with or without compensation if I am confirmed to be a United States District Judge.

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.

My husband is a partner at the law firm of Landman, Corsi, Ballaine & Ford, P.C., in New York, New York. As a magistrate judge, I presently recuse myself in any case in which my husband or any attorneys at his firm are counsel; in any case in which my husband or I have a financial interest; and in any case where I have a significantly close relationship with counsel, parties, or witnesses (family, business, or social). I would continue to recuse myself from such cases were I confirmed as a district court judge.

- 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 as a district court judge, I would continue to resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all applicable policies and procedures of the United States Courts. I would recuse myself in any matter in which my spouse or lawyers at his firm are counsel; where myself or my husband hold a financial interest; or where I have a sufficiently close connection with counsel or the parties (family, business, or social). In the event of uncertainty, I would err on the side of disqualification.

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.

As a magistrate judge, I am not permitted to represent clients, pro bono or otherwise. Similarly, as an attorney for the federal government, my pro bono activities also were restricted. However, I do participate in educational seminars sponsored by local law schools. This includes presiding over mock trials and moot court competitions.



**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.

In January 2014, I submitted my resume to Senator Gillibrand's office for consideration for the district court. On April 3, 2014, I interviewed with Senator Gillibrand and a member of her staff in Washington, D.C. Thereafter, Senator Gillibrand advised me that she would be sending my name to the White House for consideration. Since August 1, 2014, I have been in contact with attorneys from the Office of Legal Policy at the Department of Justice. On September 12, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On September 18, 2014, 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.

AOJD  
Rev. 1/2013

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Azzack, Joan M.	2. Court or Organization US District Court East Dist NY	3. Date of Report 09/18/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge Nominee	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination      Date 09/18/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Associated Report	6. Reporting Period 01/01/2013 to 09/18/2014
7. Chambers or Office Address United States Courthouse 225 Cadman Plaza East Room 333 Brooklyn, NY 11201  <b>IMPORTANT NOTES:</b> The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.		

**I. POSITIONS.** (Reporting individual only; see pp. 9-13 of filing instructions.)

NONE (No reportable positions.)

	POSITION	NAME OF ORGANIZATION/ENTITY
1.		
2.		
3.		
4.		
5.		

**II. AGREEMENTS.** (Reporting individual only; see pp. 14-16 of filing instructions.)

NONE (No reportable agreements.)

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

**FINANCIAL DISCLOSURE REPORT**  
Page 2 of 11

Name of Person Reporting Azreck, Joan M.	Date of Report 09/18/2014
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**III. NON-INVESTMENT INCOME.** (Reporting individual and spouse; see pp. 17-24 of filing instructions.)

**A. Filer's Non-Investment Income**

NONE (No reportable non-investment income.)

	DATE	SOURCE AND TYPE	INCOME (years, not spouse's)
1.			
2.			
3.			
4.			

**B. Spouse's Non-Investment Income** - If you were married during any portion of the reporting year, complete this section.  
(Dollar amount not required except for honoraria.)

NONE (No reportable non-investment income.)

	DATE	SOURCE AND TYPE
1.	2013	2013 Salary and bonus from Landman Corsi Ballaine & Ford PC
2.	2014	2014 Salary draw from Landman Corsi Ballaine & Ford P.C.
3.		
4.		

**IV. REIMBURSEMENTS** - transportation, lodging, food, entertainment.  
(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

NONE (No reportable reimbursements.)

	SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1.	EXEMPT				
2.					
3.					
4.					
5.					

**FINANCIAL DISCLOSURE REPORT**  
Page 3 of 11

<b>Name of Person Reporting</b> Azzuck, Jean M.	<b>Date of Report</b> 09/18/2014
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**V. GIFTS.** (Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)

NONE (No reportable gifts.)

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1.	EXEMPT		
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** (Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)

NONE (No reportable liabilities.)

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.			
2.			
3.			
4.			
5.			

**FINANCIAL DISCLOSURE REPORT**  
Page 4 of 11

<b>Name of Person Reporting</b> Azruck, Jean M.	<b>Date of Report</b> 09/18/2014
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**VII. INVESTMENTS and TRUSTS** - Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-69 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

	A. Description of Assets (including trust assets)  Place "X" after each asset except from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period						
		(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)		
		Amount Code 1 (A-I)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yyyy	Value Code 2 (J-P)	Gain Code 1 (A-I)	Identity of buyer/seller (if private transaction)		
1.	Citibank NA Personal Banking New York, NY (acct # 1)	A	Interest	M	T	Exempt						
2.	Citibank NA Personal Banking, New York, NY (acct #2)	A	Interest	J	T							
3.	Oppenheimer Advantage Bank Deposits various banks (IRA)	A	Interest	K	T							
4.	Western Asset Citi Liquid Reserves	A	Dividend									
5.	Western Asset Citi New York Tax Free Reserves	A	Interest									
6.	PMA: SSGA Prime Money Market (IRA)	A	Distribution	J	T							
7.	Fidelity VIP Equity Incm Port - Nationwide Annuity Contract		None	M	T							
8.	Fid VIP Growth Portfolio - Nationwide Annuity Contract		None	K	T							
9.	Fid VIP Overseas Portfolio - Nationwide Annuity Contract		None	K	T							
10.	Fid VIP2 Asset Mgr Port - Nationwide Annuity Contract		None	L	T							
11.	PMA: Pimco Low Duration Fund Intl (IRA)	B	Distribution	L	T							
12.	PMA: Pimco Total Ret Fund (IRA)	B	Distribution	K	T							
13.	Oppenheimer Global Value Fnd - Nationwide Annuity Contract		None	L	T							
14.	Fidelity Blue Chip Fund - Fidelity 401(k)		None	L	T							
15.	Fidelity Diversified Intl - Fidelity 401(k)		None	L	T							
16.	Fidelity Freedom 2020 Fund - Fidelity 401(k)		None	K	T							
17.	Fidelity Contrafund - Fidelity 401(k)		None	M	T							

1. Income Gain Codes (See Columns B1 and D4)  
 A = \$1,000 or less  
 F = \$50,001 - \$100,000  
 J = \$15,000 or less  
 N = \$250,001 - \$500,000  
 P1 = \$25,000,001 - \$50,000,000  
 Q = Appraisal  
 U = Book Value

2. Value Codes (See Columns C1 and D3)  
 B = \$1,001 - \$2,500  
 G = \$100,001 - \$1,000,000  
 K = \$15,001 - \$50,000  
 O = \$500,001 - \$1,000,000  
 H = \$100,001 - \$1,000,000  
 L = \$50,001 - \$100,000  
 P2 = \$1,000,001 - \$5,000,000  
 R = More than \$5,000,000  
 S = Amortized  
 W = Estimated

3. Value Method Codes (See Column C2)  
 H = Cost (Real Estate Only)  
 V = Other

4. Transaction Codes (See Columns D1-D5)  
 D = \$5,001 - \$15,000  
 IZ = More than \$5,000,000  
 M = \$100,001 - \$250,000  
 P2 = \$5,000,001 - \$25,000,000  
 P4 = More than \$25,000,000  
 T = Cash Market

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Azreck, Joan M.	<b>Date of Report</b> 09/18/2014
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**VII. INVESTMENTS and TRUSTS** – Income, value, transactions (includes those of spouse and dependent children; see pp. 34-68 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

18. Fidelity Grow & Inc - Fidelity 401(k)	A. Description of Assets (including trust assets)		B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	Place "X" after each asset except from prior disclosure	Amount Code 1 (A-I)	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
			Type (e.g., div., rest, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if previous transaction)		
			None		M	T						
			None		L	T						
			None		L	T						
	X	A	Dividend		J	T						
	X	A	Dividend		J	T						
	X	A	Dividend		J	T						
	X	A	Dividend		J	T						
	X	A	Dividend		J	T						
	X	C	Interest		L	T						
			None		K	T						
	X	A	Dividend		J	T						
			None		K	T						
	X	C	Interest		L	T						
	X	A	Dividend		L	T						
	X	A	Dividend		K	T						
	X	A	Dividend		K	T						
	X	A	Dividend									
			None		M	T						
			None		J	T						

1. Income Gain Codes: A = \$1,000 or less (See Columns B1 and D4) F = \$50,001 - \$100,000 B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000 H1 = \$1,000,001 - \$5,000,000 D = \$5,001 - \$15,000 E = \$15,001 - \$50,000 I2 = More than \$5,000,000

2. Value Codes: J = \$15,000 or less (See Columns C1 and D3) K = \$15,001 - \$50,000 L = \$50,001 - \$100,000 M = \$100,001 - \$250,000 N = \$250,001 - \$500,000 O = \$500,001 - \$1,000,000 P1 = \$1,000,001 - \$5,000,000 P2 = \$5,000,001 - \$25,000,000 Q = More than \$50,000,000

3. Value Method Codes (See Column C2) Q = Appraisal R = Cost (Real Estate Only) S = Assessment T = Cash Market U = Book Value V = Other W = Estimated

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting <b>Azrack, Joan M.</b>	Date of Report <b>09/18/2014</b>
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**VII. INVESTMENTS and TRUSTS** – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-68 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

Description of Assets (including trust assets)  Place "DC" after each asset except from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-I)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-I)	Identity of buyer/seller (if private transaction)	
35. New York 529 - Inflation Protea Securities Portfolio		None	J	T						
36. New York 529 - Aggressive Growth Portfolio		None	J	T						
37. New York 529 - Growth Portfolio		None	J	T						
38. New York 529 - Small Cap Stock Index Portfolio		None	J	T						
39. New York 529 Conservative Growth Portfolio		None	J	T						
40. PMA: Vanguard High Yield Adm'n (IRA)	C	Distribution	K	T						
41. Oppenheimer: Kinetics Paradigm Adv C (IRA)	A	Dividend	K	T						
42. PMA: Vanguard Short Term Investment Grade Fund (IRA)	C	Distribution	M	T						
43. PMA: MetWest Intermediate Bond Fund	A	Distribution	J	T						
44. Oppenheimer: Advantage Offshore Liquidity Fund (IRA)	A	Dividend	J	T						
45. Oppenheimer: First Trust Strategic High Income Fd (IRA)	A	Dividend	J	T						
46. PMA: Vanguard Intermediate Term Investment Grade Fund (IRA)	B	Distribution	L	T						
47. Fidelity Freedom 2010 Fund - Fidelity 401k		None								
48. GRTRM NVIT Intl Equity Fund - Nationwide Annuity Contract		None	K	T						
49. NVIT Multi-Mgr Intl Grw Fnd - Nationwide Annuity Contract		None	K	T						
50. JP Morgan Mid Cap Growth -	A	Dividend	K	T						
51. NVIT Large Cap r Fund-R - Nationwide Annuity Contract		None	L	T						

1. Income Gain Codes: A-\$1,000 or less; B-\$1,001 - \$2,500; C-\$2,501 - \$5,000; D-\$5,001 - \$15,000; E-\$15,001 - \$50,000; F-\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H=\$1,000,001 - \$5,000,000; I=\$5,000,001 - \$10,000,000; J=\$10,000,001 - \$50,000,000; K=\$50,000,001 - \$1,000,000,000; L=\$1,000,000,001 - \$5,000,000,000; M=\$5,000,000,001 - \$10,000,000,000; N=\$10,000,000,001 - \$50,000,000,000; O=\$50,000,000,001 - \$100,000,000,000; P=\$100,000,000,001 - \$500,000,000,000; Q=Apprecial; R=Cost (Real Estate Only); S=Other; T=Cash Market; U=Book Value; V=Other; W=Estimated

2. Value Codes: J=\$15,000 or less; K=\$15,001 - \$50,000; L=\$50,001 - \$100,000; M=\$100,001 - \$250,000; N=\$250,001 - \$500,000; O=\$500,001 - \$1,000,000; P=\$1,000,001 - \$5,000,000; Q=\$5,000,001 - \$25,000,000; R=\$25,000,001 - \$50,000,000; S=\$50,000,001 - \$100,000,000; T=\$100,000,001 - \$250,000,000; U=\$250,000,001 - \$500,000,000; V=\$500,000,001 - \$1,000,000,000; W=\$1,000,000,001 - \$5,000,000,000; X=\$5,000,000,001 - \$10,000,000,000; Y=\$10,000,000,001 - \$50,000,000,000; Z=\$50,000,000,001 - \$100,000,000,000

3. Value Method Codes: A=Apprecial; B=Book Value; C=Cash Market; D=Estimated; E=Other; F=Real Estate Only; G=Other

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Azzuck, Jean M.	<b>Date of Report</b> 09/18/2014
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**VIL INVESTMENTS and TRUSTS** — Income, value, transactions (includes those of spouses and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

Description of Assets (including trust assets)  Place "(X)" after each asset except from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Asset Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 3 (J-P)	Gain Code 1 (A-H)	Identify of buyer/seller (if private transaction)
52. Opp: Invesco Tr Inv Grade NY Mun Bka NY Qual Mun Sec Com	A	Interest	K	T					
53. Opp:Black Rock Flex Eq Div fka Mid Cap Val Eq C (IRA)	A	Dividend	K	T					
54. Opp:Black RockFlex Eq Div fka Mid Cap Val Eq C (IRA)	A	Dividend	K	T					
55. Oppenheimer: Advantage Bank Deposits in various banks (IRA)	A	Interest	J	T					
56. PMA: Columbia Midcap Value Fund (IRA)	A	Distribution	K	T					
57. PMA: FMI Large Cap Fund (IRA)	A	Distribution	K	T					
58. PMA: Jensen Quality Gr (IRA)	A	Distribution	K	T					
59. PMA: Odyssey Growth Fund (IRA)	A	Distribution	K	T					
60. PMA: T Rowe Price Small Cap Stock Fund (IRA)	A	Distribution	K	T					
61. PMA: Vanguard Extended Market Index (IRA)	A	Distribution	K	T					
62. PMA: Vanguard 500 Index Fund (IRA)	C	Distribution	M	T					
63. PMA: Harbor International Fund (IRA)	B	Distribution	K	T					
64. PMA: Scout International Fund (IRA)	A	Distribution	K	T					
65. PMA: Vanguard International Index Fund (IRA)	B	Distribution	K	T					
66. PMA: Harbor International Fund	B	Distribution	K	T					
67. PMA: Odyssey Growth Fund	A	Distribution	K	T					
68. PMA:Odyssey Aggressive Growth Fund	A	Distribution	K	T					

1. Income Code: A = \$1,000 or less B = \$1,001 - \$2,500 C = \$2,501 - \$5,000 D = \$5,001 - \$15,000 E = \$15,001 - \$50,000  
 (See Columns B1 and D4) F = \$50,001 - \$100,000 G = \$100,001 - \$1,000,000 H1 = \$1,000,001 - \$5,000,000 H2 = More than \$5,000,000  
 2. Value Code: J = \$15,000 or less K = \$15,001 - \$50,000 L = \$50,001 - \$100,000 M = \$100,001 - \$250,000  
 (See Columns C1 and D3) N = \$250,001 - \$500,000 O = \$500,001 - \$1,000,000 P1 = \$1,000,001 - \$5,000,000 P2 = \$5,000,001 - \$25,000,000  
 3. Value Method Code: Q = Appraisal R = Cost (Real Estate Only) S = Assessed T = Cash Market  
 (See Column C2) U = Book Value V = Other W = Estimated



**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting Azzack, Joan M.	Date of Report 09/18/2014
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**VII. INVESTMENTS and TRUSTS** – income, value, transactions (includes those of spouse and dependent children; see pp. 34-68 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset except from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-I)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-I)	Identity of buyer/seller (if private transaction)
69. PMA: Vanguard International Index Fund	B	Distribution	K	T					
70. PMA: Vanguard Extended Market Index Fund	A	Distribution	K	T					
71. PMA: Columbia Mid Cap Value Fund	A	Distribution	K	T					
72. PMA: FMI Large Cap Fund	A	Distribution	J	T					
73. PMA: Jensen Quality Growth Fund	A	Distribution	J	T					
74. PMA: Vanguard 500 Index Fund	A	Distribution	L	T					
75. PMA: Fimco Low Duration Fund	A	Distribution	K	T					
76. PMA: Pimco Total Return Fund	A	Distribution	J	T					
77. PMA: Vanguard High Yield Corporate Fund	A	Distribution	J	T					
78. PMA: Vanguard Interned Term Tax Exempt Fund	A	Distribution	K	T					
79. PMA: Vanguard Limited Term Tax Exempt Fund	A	Distribution	K	T					
80. PMA: SSGA Prime Money Market	A	Distribution	J	T					
81. New York 529: Mid-Cap Stock Index Portfolio		None	J	T					
82. PMA: American Beacon International Fund (IRA)	A	Distribution	J	T					
83. PMA: Vanguard Growth Index Fund (IRA)	A	Distribution	K	T					
84. PMA: T Rowe Price Equity Income Fund (IRA)	A	Distribution	L	T					
85. PMA: Vanguard Growth Index Fund	A	Distribution	K	T					

- Income Gain Codes:** (See Columns B1 and D6)  
A = \$1,000 or less  
F = \$50,001 - \$100,000  
J = \$15,000 or less  
N = \$250,001 - \$500,000  
PS = \$75,000,001 - \$50,000,000
- Value Codes:** (See Columns C1 and D3)  
B = \$1,001 - \$2,500  
G = \$100,001 - \$1,000,000  
K = \$15,001 - \$50,000  
O = \$500,001 - \$1,000,000  
R = Cost (Real Estate Only)  
V = Other
- Value Method Codes:** (See Column C2)  
Q = Appraisal  
U = Book Value
- Value Codes:** (See Columns C1 and D3)  
C = \$2,501 - \$5,000  
H = \$1,000,001 - \$5,000,000  
L = \$50,001 - \$100,000  
P1 = \$1,000,001 - \$5,000,000  
P4 = More than \$50,000,000  
S = Automated  
W = Estimated
- Value Codes:** (See Columns C1 and D3)  
D = \$5,001 - \$15,000  
E2 = More than \$5,000,000  
M = \$100,001 - \$250,000  
Y2 = \$5,000,001 - \$25,000,000  
T = Cash Method
- Value Codes:** (See Columns C1 and D3)  
E = \$15,001 - \$50,000

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Azraek, Juan M.	<b>Date of Report</b> 09/18/2014
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**VII. INVESTMENTS and TRUSTS** – income, value, transactions (Includes those of spouse and dependent children; see pp. 14-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "OO" after each entry except from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date month/day	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
86. PMA: T Rowe Price Equity Income Fund	A	Distribution	K	T						
87. Oppenheimer: Blackrock Muni Yield NY Qty Fd Tax Free	C	Dividend	K	T						
88. PMA: MetWest Intermediate Bond Fund (IRA)	B	Dividend	L	T						
89. Oppenheimer: Voya Global Eq Div & Prem Opportunity Fd (IRA)	A	Dividend	K	T						
90. Nike common stock class B	A	Dividend	J	T						
91. Coca-Cola common stock	A	Dividend	J	T						
92. McDonald's common stock	A	Dividend	J	T						

1. Income Data Codes: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000; F = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H = \$1,000,001 - \$5,000,000; I = \$500,001 - \$1,000,000; J = \$15,001 - \$50,000; K = \$50,001 - \$100,000; L = \$100,001 - \$250,000; M = \$250,001 - \$500,000; N = \$500,001 - \$1,000,000; O = \$1,000,001 - \$5,000,000; P = \$5,000,001 - \$25,000,000; Q = \$25,000,001 - \$50,000,000; R = \$50,000,001 - \$100,000,000; S = \$100,000,001 - \$500,000,000; T = \$500,000,001 - \$1,000,000,000; U = \$1,000,000,001 - \$5,000,000,000; V = \$5,000,000,001 - \$10,000,000,000; W = \$10,000,000,001 - \$50,000,000,000; X = \$50,000,000,001 - \$100,000,000,000; Y = \$100,000,000,001 - \$500,000,000,000; Z = \$500,000,000,001 - \$1,000,000,000,000.

2. Value Codes (See Columns C1 and D3): J = \$15,001 or less; K = \$15,001 - \$50,000; L = \$50,001 - \$100,000; M = \$100,001 - \$250,000; N = \$250,001 - \$500,000; O = \$500,001 - \$1,000,000; P = \$1,000,001 - \$5,000,000; Q = \$5,000,001 - \$25,000,000; R = \$25,000,001 - \$50,000,000; S = \$50,000,001 - \$100,000,000; T = \$100,000,001 - \$500,000,000; U = \$500,000,001 - \$1,000,000,000; V = \$1,000,000,001 - \$5,000,000,000; W = \$5,000,000,001 - \$10,000,000,000; X = \$10,000,000,001 - \$50,000,000,000; Y = \$50,000,000,001 - \$100,000,000,000; Z = \$100,000,000,001 - \$500,000,000,000.

3. Value Method Codes (See Column C2): A = Acquisition; B = Contribution; C = Gift; D = Inheritance; E = Other; F = Cash; G = Cash (Real Estate Only); H = Other; I = Other; J = Other; K = Other; L = Other; M = Other; N = Other; O = Other; P = Other; Q = Other; R = Other; S = Other; T = Other; U = Other; V = Other; W = Other; X = Other; Y = Other; Z = Other.

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
Azzack, JOAN M.	09/18/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

PMA, as used in Part VII, refers to Prudent Management Associates, which maintains managed assets portfolios (individual and IRA) containing investments identified herein.

Oppenheimer (or "Opp."), as used in Part VII, refers to Oppenheimer & Co., Inc., which maintains brokerage accounts (individual and IRA) containing investments identified herein.

Nationwide Annuity Contract, as used in Part VII, refers to a Nationwide Variable Annuity Contract account, which contains investments identified herein.

Fidelity 401k, as used in Part VII, refers to a 401k account maintained by Fidelity Investments, which contains investment identified herein.

NY 529, as used in Part VII, refers to a NY State 529 college savings program, which contains investments identified herein.

**FINANCIAL DISCLOSURE REPORT**  
Page 11 of 11

Name of Person Reporting	Date of Report
Azrack, Joan M.	09/18/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/ Joan M. Azrack*

**NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)**

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

## FINANCIAL STATEMENT

## NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		151	382	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities - see schedule/	3	105	569	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable			
Real estate owned - see schedule	4	200	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		20	000				
Cash value-life insurance		373	365				
Other assets itemize:							
Thrift Savings Plan		374	220				
Landman Corsi Ballaine & Ford P.C.		75	000				
				Total liabilities			0
				Net Worth	8	299	536
Total Assets	8	299	536	Total liabilities and net worth	8	299	536
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts		3	500	Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

**FINANCIAL STATEMENT**  
**NET WORTH SCHEDULES**

Listed Securities

AllianceBernstein New York Municipal Income Fund	63,555
American Beacon International Equity Fund	14,523
American Century Equity Income Fund	47,320
BlackRock Flexible Equity Fund	31,954
BlackRock Muniholdings New York Quality Fund	45,706
Catalyst Insider Buying Fund	28,478
Coca-Cola Co. stock	498
Columbia Mid-Cap Value Fund	57,524
Eaton Vance NY Municipal Bond Fund	50,369
Fidelity Blue Chip Fund	71,424
Fidelity Contrafund	203,845
Fidelity Diversified International Fund	89,565
Fidelity Freedom 2020 Fund	25,681
Fidelity Growth & Income Fund	121,544
Fidelity Investment Grade Bond Fund	111,808
Fidelity Retirement Money Market Fund	95,149
Fidelity Value Fund	57,018
Fidelity VIP Asset Manager Portfolio	76,470
Fidelity VIP Equity-Income Portfolio	102,881
Fidelity VIP Growth Portfolio	37,058
Fidelity VIP Overseas Portfolio	31,139
First Trust Strategic High Income Fund	5,772
FMI Large Cap Fund	46,414
Harbor International Fund	71,305
Invesco Trust for Investment Grade New York Municipals	30,813
Jensen Quality Growth Fund	45,463
JPMorgan Growth & Income Fund	10,910
JPMorgan International Opportunities Fund	10,975
JPMorgan Mid-Cap Growth Fund	15,841
Kinetics Paradigm Fund	148,096
McDonalds stock	1,488
MetWest Intermediate Bond Fund	64,936
Nationwide NVIT International Equity Fund	16,191
Nationwide NVIT Large Cap Growth Fund	63,201
Nationwide NVIT Money Market Fund	28,851
Nationwide NVIT Multi-Manager International Growth Fund	17,439
Nike stock	3,280
NY's 529 Aggressive Growth Portfolio	5,619
NY's 529 Conservative Growth Portfolio	1,214
NY's 529 Growth Portfolio	12,194

NY's 529 Income Portfolio	1,429
NY's 529 Inflation-Protected Securities Portfolio	3,160
NY's 529 Mid-Cap Stock Index Portfolio	1,029
NY's 529 Small-Cap Stock Index Portfolio	1,011
Oppenheimer Advantage Municipal Liquidity Money Market Fund	12,600
Oppenheimer Advantage Offshore Liquidity Money Market Fund	3,080
Oppenheimer Global Value Fund	63,201
PIMCO Low Duration Fund	77,061
PIMCO Total Return Fund	25,729
PRIMECAP Odyssey Aggressive Growth Fund	24,949
PRIMECAP Odyssey Growth Fund	69,805
Scout International Fund	17,265
SSgA Prime Money Market Fund	1,320
T. Rowe Price Equity Income Fund	92,093
T. Rowe Price Small-Cap Stock Fund	32,057
Vanguard 500 Index Fund	170,420
Vanguard Extended Market Index Fund	62,271
Vanguard Growth Index Fund	63,840
Vanguard High Yield Corporate Fund	51,800
Vanguard Intermediate-Term Investment-Grade Fund	86,814
Vanguard Intermediate-Term Tax-Exempt Fund	16,139
Vanguard International Index Fund	52,067
Vanguard Limited-Term Tax-Exempt Fund	28,150
Vanguard Short-Term Investment-Grade Fund	151,467
Voya Global Equity Dividend & Premium Opportunity Fund	18,544
Walt Disney Co. stock	2,700
Total Listed Securities	<u>\$ 3,105,569</u>

Real Estate Owned

Personal residence	\$ 2,100,000
Vacation home	2,100,000
Total Real Estate Owned	<u>\$ 4,200,000</u>

AFFIDAVIT

I, JOAN MARIE AZRACK, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

9/23/14  
(DATE)

Joan Marie Azrack  
(NAME)

Michele Gapinski  
(NOTARY)

MICHELE GAPINSKI  
Notary Public, State of New York  
No. 02GA4984235  
Qualified in Suffolk County  
Commission Expires July 15, 2015



UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Loretta Copeland Biggs  
(Loretta Yvonne Copeland)

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

United States District Court Judge for the Middle District of North Carolina

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:** Allman Spry Davis Leggett & Crumpler, P.A.  
380 Knollwood Street, Suite 700  
Winston-Salem, North Carolina 27103

**Residence:** Lewisville, North Carolina

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

1954; Atlanta, Georgia

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.

1976 – 1979, Howard University School of Law; J.D. (with honors), 1979

1972 – 1976, Spelman College; B.A. (*cum laude*), 1976

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.

May 2014 – present  
Allman Spry Davis Leggett & Crumpler, P.A.

380 Knollwood Street, Suite 700  
Winston-Salem, North Carolina 27103  
Partner

2003 – May 2014  
Davis Harwell & Biggs, P.A.  
380 Knollwood Street, Suite 720  
Winston-Salem, North Carolina 27103  
Managing Shareholder

2001 – 2002  
North Carolina Court of Appeals  
901 Corporate Center Drive  
Raleigh, North Carolina 27607  
Associate Judge

1994 – 2001  
U.S. Attorney's Office  
Middle District of North Carolina  
101 South Edgewood Street  
Greensboro, North Carolina 27401  
Assistant United States Attorney (1994 – 1997)  
Executive Assistant United States Attorney (1997 – 2001)

1987 – 1994  
21st Judicial District, Forsyth County  
200 North Main Street  
Winston-Salem, North Carolina 27101  
State District Court Judge

1984 – 1987  
21st Judicial District, Forsyth County  
200 North Main Street  
Winston-Salem, North Carolina 27101  
Assistant District Attorney

1984 – 1987  
Wake Forest School of Law  
1834 Wake Forest Road  
Winston-Salem, North Carolina 27109  
Adjunct Law Professor (uncompensated)

1979 – 1982, Summer 1978  
The Coca-Cola Company  
One Coca-Cola Plaza  
Atlanta, Georgia 30303

Staff Counsel (1979 – 1982)  
Summer Intern (Summer 1978)

Other affiliations (uncompensated):

2013 – present  
Academy of Matrimonial Lawyers  
150 North Michigan Avenue, Suite 1420  
Chicago, Illinois 60601  
North Carolina Chapter Secretary

2013 – March 2014  
United Way of Forsyth County  
301 North Main Street, Suite 1700  
Winston-Salem, North Carolina 27101  
Board Member

2005 – 2009, 1999 – 2001  
Winston-Salem State University Board of Trustees  
601 South Martin Luther King Jr. Drive  
Winston-Salem, North Carolina 27110  
Trustee (2005 – 2009, 1999 – 2001)  
Vice Chair (2007 – 2009)

1999 – 2001  
Forsyth County Juvenile Justice Council (now Forsyth Futures)  
301 North Main Street, Suite 1700  
Winston-Salem, North Carolina 27101  
Chair

1991 – 1998  
Wake Forest University Law Board of Visitors  
1834 Wake Forest Road  
Winston-Salem, North Carolina 27109  
Board Member

1994 – 1997  
Salem College and Academy Board of Visitors  
601 South Church Street  
Winston-Salem, North Carolina 27101  
Board Member

1996 – 1998  
Joseph Branch Inn of Court, Wake Forest University School of Law  
1834 Wake Forest Road

Winston-Salem, North Carolina 27109  
Master

Approximately 1984 – 1986  
Forsyth County Advisory Board, Wachovia Bank and Trust  
100 North Main Street  
Winston-Salem, North Carolina 27101  
Board Member

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 United States Military. I was not required to register for Selective Service.

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.

Fellow, American Academy of Matrimonial Lawyers (2013 – present)

Listed in NC Super Lawyers (2006 – present)

Listed in the Best Lawyers in America (2006 – present)

Rated AV Preeminent by Martindale-Hubbell (2006 – present)

Top 50 Women Lawyers in the NC Super Lawyers Magazine (2007)

Common Ground Community Award, Search For Common Ground (2000)

The Attorney General's Award for Outstanding Contributions to Public Safety (1999)

YMCA Public Leadership Award (1999)

Visionworks Humanitarian Award, Visionworks Youth Services (1999)

Nurturing Our Community Award, Black Law Students Association of Wake Forest University School of Law (1998)

Outstanding Service Award, Black Law Students Association of Wake Forest University (1998)

Dream Catchers Award, Tarheel Triad Girl Scouts Council (1998)

Community Service Award, Family Services of Forsyth County (1997)

Salute to Excellence (Law), National Women of Achievement (1997)

Master, Joseph Branch Inn of Court, Wake Forest University School of Law (1996)

Strong, Smart and Bold Award, Salvation Army Girl's Club, Forsyth County (1993, 1994)

State Youth Services Award, Southeastern Network of Youth and Family Services (1994)

Woman of the Year Award, Winston-Salem Chronicle (1994)

Best Choice Center "Wall of Fame" Recipient (1993)

Deputy Articles Editor of the Law Journal, Howard University School of Law, Law Journal (1978)

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.

Forsyth County Bar Association (1984 – present)

National Bar Association (2011 – present)  
Appellate Section

North Carolina Association of Black Lawyers (1995 – present)

North Carolina Association of Women Attorneys (2002 – present)

North Carolina Bar Association (2002 – present)  
Family Law and Appellate Sections

Winston-Salem Bar Association (1984 – present)  
President-Elect (1986)

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.

North Carolina, 1984  
Georgia, 1979 (inactive)

There have been no lapses in membership although as indicated, my membership in Georgia is inactive.

- 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.

Supreme Court of the United States, 2002  
 All North Carolina courts, 1994  
 United States Court of Appeal for the Fourth Circuit, 1994  
 United States District Court for the Middle District of North Carolina, 1994

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 Academy of Matrimonial Lawyers (2012 – present)  
 Fellow (2013 – present)  
 Secretary for the North Carolina Chapter (2013 – present)  
 Board of Examiners for the North Carolina Chapter (2013 – present)  
 Secretary  
 Board of Managers for the North Carolina Chapter (2013 – present)  
 Secretary  
 Diversity Committee (2013 – present)  
 Law Office Management Committee (2012 – 2013)  
 Public Service and Education Committee (2012 – present)

Commission for Judicial Campaign Finance Reform (2006)

Forsyth County Juvenile Justice Council (now Forsyth Futures) (1999 – 2001)  
 Chair

Governor's Task Force on Youth Violence and Community Safety (1997 – 1999)

Joseph Branch Inn of Court, Wake Forest University School of Law  
 (1996 – 1998)  
 Master

Mayor's Violence Reduction Task Force (1993 – 1995)

Military Academy Selection Board for the Fifth Congressional District  
(2000 – 2006)

North Carolina Innocence Inquiry Commission (2007 – 2010)  
Alternate for Discretionary Member 1

North Carolina State Advisory Council on Juvenile Justice and Delinquency  
Prevention (1999 – 2000)  
Co-chair

North Carolina State Board of Elections Advisory Council for Public Campaign  
Fund (2006)  
Member

North Carolina Chief Justice's Commission on Professionalism (2004 – 2006)

Partnership For A Drug Free North Carolina (1995 – 1997)  
Co-Chair

Salem College and Academy (1994 – 1997)  
Board of Visitors

State Legislative Council to Revise the Juvenile Code (1994)

United Way of Forsyth County (2013 – 2014)  
Board Member

Wachovia Bank and Trust (approximately 1984 – 1986)  
Forsyth County Advisory Board

Wake Forest University Law (1991 – 1998)  
Board of Visitors

Winston-Salem State University (2005 – 2009; 1999 – 2001)  
Board of Trustees (2005 – 2009, 1999 – 2001)  
Vice Chair (2007 – 2009)

- 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 the best of my knowledge, none of the organizations listed above 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.

Divorce Value: Standards Of Value For Professional Practices And Closely Held Businesses, published on the website of The American Academy of Matrimonial Lawyers, posted September 9, 2010. Copy supplied.

Open Letter from Judge Biggs, "Thank You For Allowing Me To Serve", Winston-Salem Chronicle, July 7, 1994 (reprinted in multiple outlets). Copy supplied.

- 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.

During the years that I served on the Winston-Salem State University Board of Trustees, from 1999 to 2001 and from 2005 to 2009, I participated in board meetings focused on matters pertaining to Winston-Salem State University's management and development. The board's role was to serve as an advisor to the North Carolina Board of Governors, which oversees all of the state's public colleges and universities. I have no notes, transcript, or recordings of these meetings, but the university's annual reports during this period summarized various measures on which I voted. The annual reports and publications that I have identified are available at: <http://www.wssu.edu/about/publications/annual-reports.aspx> and <http://www.wssu.edu/about/publications/archway-archive.aspx>.

- 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.



I have done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. I have identified the following:

As an alternate appointee for Discretionary Member 1 on the North Carolina Innocence Inquiry Commission from 2007 to 2010, I participated in quarterly meetings focused on investigating and evaluating post-conviction claims of factual innocence. I have no notes, transcripts, or recordings of these meetings.

As a member of the North Carolina State Advisory Council on Juvenile Justice and Delinquency Prevention from 1999 to 2000, I participated in meetings focused on North Carolina's juvenile justice system. The Council's role was to assist the Department of Juvenile Justice and Delinquency Prevention to improve the juvenile justice system in North Carolina. I have no notes, transcripts, or recordings of these meetings, but the Council's activities are summarized in the 2000 Annual Report, which I have supplied.

As a member of the Governor's Task Force on Youth Violence and School Safety from 1997 to 1999, I participated in meetings where we formulated recommendations designed to reduce youth violence and increase school safety. I have no notes, transcripts, or recording of these meetings. In addition, although I did not personally draft any recommendations, I did contribute to their creation. These recommendations were published in the Governor's Task Force on Youth Violence and School Safety Executive Summary Report in 1999, which I have supplied.

As a member of the Mayor's Violence Reduction Task Force for Winston-Salem from 1993 to 1995, I participated in meetings called by the mayor that focused on implementing programs and initiatives designed to reduce violence in the local community. I have no notes, transcripts, or recordings of these meetings.

As a member of the State Legislative Council to Revise the Juvenile Code in 1994, I participated in monthly meetings where we discussed and evaluated North Carolina's criminal statutes pertaining to juveniles. I have no notes, transcripts, or recordings of these meetings.

- 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.

During my legal career and particularly during my tenure as a state district court judge, federal prosecutor and court of appeals judge, I spoke frequently. After reviewing my files and public databases, I have provided information for all of the presentations that I can recall, although there may be events that have been omitted inadvertently.

2008 – 2012: Guest Lecturer, Dean Suzanne Reynolds' and Joslin Davis' Advanced Family Law Class, Wake Forest University School of Law, Winston-Salem, North Carolina. I have been a lecturer for their classes on a number of occasions. I have generally discussed issues related primarily to financial aspects of a family law case to include post separation support, alimony, and equitable distribution. I have no notes, transcript, or recording. The address for the Wake Forest University School of Law is 1834 Wake Forest Road, Winston-Salem, North Carolina 27109.

September 14, 2012: Presenter, "Pants on Fire, Evidence, Available Sanctions Under the North Carolina Rules of Civil Procedure and the North Carolina Family Law Statutes," North Carolina Bar Association Family Law Fall Meeting, Grandover Conference Center, Greensboro, North Carolina. PowerPoint and manuscript supplied.

My previous firm, Davis Harwell & Biggs, P.A., filmed several short video presentations in which I discuss my professional qualifications, experience, and expertise. The firm's website is no longer active, but the videos may be accessed at the following hyperlinks:

April 5, 2012: Video entitled "Loretta Biggs Website Intro 2012."  
Available at: <http://vimeo.com/39835691>.

April 5, 2012: Video entitled "DHB Website Intro." Available at:  
<http://vimeo.com/39833907>.

December 24, 2010: Video entitled "Loretta Biggs Introduction."  
Available at: <http://vimeo.com/18153390>.

December 24, 2010: Video entitled "Davis Harwell & Biggs  
Introduction." Available at: <http://vimeo.com/18150921>.

February 24, 2012: Speaker, Discover Law Day, Wake Forest University School of Law, Winston-Salem, North Carolina. I spoke to high school students about preparation for law school, law school life, the legal profession, and the admissions process. I have no notes, transcript or recording. The address for the

Wake Forest University School of Law is 1834 Wake Forest Road, Winston-Salem, North Carolina 27109.

2011: Speaker, Spelman Summer Research Program, Wake Forest University, Winston-Salem, North Carolina. As an alumna of Spelman College, I interacted with Spelman College students during a program dinner where we discussed careers, future opportunities, and the various research programs each Spelman student was performing at Wake Forest. I have no notes, transcript or recording. The address for the Wake Forest University School of Law is 1834 Wake Forest Road, Winston-Salem, North Carolina 27109.

2009: Presenter, "As a Way of Life (What Would Lincoln Say?)," North Carolina Bar Association Continuing Legal Education, Cary, North Carolina. Remarks supplied.

January 5, 2009: Speaker, Chapter Chat, The First Tee of the Triad, Clemmons, North Carolina. I spoke about my personal and professional experiences and successes. I have no notes, transcript or recording. The address for The First Tee of the Triad is PO Box 236, Clemmons, North Carolina 27012.

October 6, 2006: Speaker, Winston-Salem University Founders' Day Convocation, Winston-Salem State University, Winston-Salem, North Carolina. Remarks supplied.

September 14, 2006: Speaker, "Professionalism," Academy of Trial Lawyers, Raleigh, North Carolina. Remarks supplied.

March 18, 2005: Speaker, "Unsticking the Stuck Mediation: What Motivates People to Settle Through Mediation, Avoiding Impasse," North Carolina Bar Association Continuing Legal Education, Grandover Conference Center, Greensboro, North Carolina. Manuscripts supplied.

2004: Panelist, "Professionalism in Practice," Lawyers Mutual, Winston-Salem, North Carolina. The panel discussed the role of professionalism in the practice of law. I have no notes, transcript, or recording. The address for Lawyers Mutual is 5020 Weston Parkway, Suite 200, Cary, North Carolina 27513.

October 14, 2004: Speaker, "The Spirit of Professionalism," Forsyth County Bar CLE, Winston-Salem, North Carolina. Remarks supplied.

September 15, 2004: Panelist, "The Changing Face of Leadership," Forsyth County Women Attorneys Association, Winston-Salem, North Carolina. The panel discussed the expanding role of women in positions of leadership. I have no notes, transcript, or recording. The address for the Forsyth County Women Attorneys Association is 2135 New Walkertown Road, Winston-Salem, North Carolina 27101.

August 14, 2004: Speaker, "Women and the Law," Forsyth County Women Attorneys, Winston-Salem, North Carolina. Remarks supplied.

February 2004, October 2003: Presenter, "Divorce Value: Standards of Value for Professional Practices and Closely Held Businesses," Intensive Family Law Continuing Legal Education, North Carolina Bar Association and the American Academy of Matrimonial Lawyers, Wilmington and Charlotte, North Carolina. Manuscript supplied.

October 7, 2003: Panelist, "Conscience and the Vietnam War: Readings," North Carolina School of the Arts, Winston-Salem, North Carolina. I do not recall this event nor do I remember ever speaking about the Vietnam War, but I have included it here because I have found an event announcement for it in performing my searches during this nomination process. I have no notes, transcript or recording. The address for the North Carolina School of the Arts is 1533 South Main Street, Winston-Salem, North Carolina 27127.

January 2003: Speaker, "Domestic Violence/Dating Violence, Is It Any Less a Crime?," Family Services of North Carolina, Winston-Salem, North Carolina. Remarks supplied.

January – November 2002: While running to retain my seat as a judge on the North Carolina Court of Appeals, I gave a number of campaign speeches and participated in candidate forums and debates. I spoke to numerous civic, political and professional organizations throughout the state of North Carolina. Although I do not recall every group or organization to which I spoke, such organizations would have included local churches; the North Carolina Democratic Party in numerous counties; the various rotary clubs in numerous counties; the Chambers of Commerce in numerous cities and counties; and local colleges and universities, including Winston-Salem State University, Wake Forest University, and Salem College and Academy. After reviewing my files and public records, I could not determine the specific dates or locations of these meetings. At all events, I shared my qualifications, experience, and community involvement. I have no notes, transcripts, or recordings.

September 18, 2002: Speaker, "Judge Loretta Biggs, North Carolina Court of Appeals," Reynolda Rotary Club, Clemmons, North Carolina. At this meeting I discussed and answered questions about my experience as a judge on the North Carolina Court of Appeals. I have no notes, transcript or recording. The address for the Reynolda Rotary Club is 3331 Union Knoll Drive, Winston-Salem, North Carolina 27107.

August 14, 2002: Speaker, "Professionalism," North Carolina Central School of Law, Durham, North Carolina. Remarks supplied.

April 5, 2002: Speaker, 2002 Leadership Institute, Winston-Salem University, Winston-Salem, North Carolina. Partial copy of remarks supplied.

February 22, 2002: Speaker, "Dedicated, Committed, and Ready to Serve," Black Law Students Association Banquet, Wake Forest University School of Law, Winston-Salem, North Carolina. Remarks supplied.

January 14, 2002: Speaker, Martin Luther King Memorial Breakfast, Lexington Municipal Club, Winston-Salem, North Carolina. I spoke about Dr. Martin Luther King, Jr. and his impact on the nation. I have no notes, transcript or recording. The address for the Lexington Municipal Club is 200 Country Club Blvd, Lexington, North Carolina 27292.

2001: Speaker, "Creating Partnerships between Systems and Community," Conference of Juvenile Justice Councils, Winston-Salem, North Carolina. Remarks supplied.

2001: Speaker, "Responding to a Culture of Violence," Community Responses to Violence Conference, Winston-Salem, North Carolina. Remarks supplied.

2001: Remarks, Swearing-in Ceremony of Loretta C. Biggs, North Carolina Court of Appeals, Raleigh, North Carolina. Remarks supplied.

November 29, 2001: Speaker, Forsyth County Criminal Defense Lawyers, Harvey Lupton Dinner, Piedmont Club, Winston-Salem, North Carolina. Remarks and partial copy of notes supplied.

November 9, 2001: Panelist, Family Law Intensive Seminar, North Carolina Bar Association, Charlotte, NC. Partial copy of remarks supplied. .

October 17, 2001: Luncheon Speaker, General Remarks, Democratic Women of Forsyth County, Winston-Salem, North Carolina. Notes supplied.

October 8, 2001: Speaker, New Role as Judge on Court of Appeals, Forsyth County Bar Association Meeting, Winston-Salem, North Carolina. Remarks supplied.

July 12, 2001: Panelist, "Professionalism as a Way of Life – Not Just the Practice of Law," Womble Carlyle Sandridge & Rice, LLP, Raleigh, North Carolina. Partial copy of remarks supplied.

June 1, 2001: Speaker, General Remarks, Salem Academy and College, Baccalaureate Ceremony, Winston-Salem, North Carolina. Remarks supplied.

May 16, 2001: Speaker, Governor's Academy of Preventive Professionals, Adam's Mark Hotel, Winston-Salem, North Carolina. Remarks supplied.

2000: Speaker, "Strategic Approach to Combatting Gun and Drug Violence." After a diligent search, I have been unable to identify the organization or place where this speech was delivered. Notes supplied.

July 2000: Panelist, "The 21st Century Lawyer: Problem Solver or Case Processor," American Bar Association Annual Meeting, New York, New York. The panel discussed the evolving role of lawyers, particularly prosecutors as problem solvers as distinguished from their traditional role as case processors. I have no notes, transcript or recording. The address for the American Bar Association is 1050 Connecticut Avenue, N.W., Suite 400, Washington, D.C. 20036.

April 2000: Speaker, "Bridges to Unleash Opportunities," Third Annual San Francisco Mayor's Conference for Women, San Francisco, California. Draft remarks supplied.

February 29, 2000: Panelist, "The Role of JCPC in Addressing Juvenile School-Related Violence," Third Annual Safe Schools' Conference, Winston-Salem Forsyth County Schools, Winston-Salem, North Carolina. The panel discussed how juvenile crime prevention councils can help deter school violence. I have no notes, transcript or recording. The address for the Winston-Salem Forsyth County School System is 475 Corporate Square Drive, Winston-Salem, North Carolina 27105.

February 8, 2000: Panelist, Symposium on Crime and Making Communities Safer Conference: Office of Justice Programs as a Resource for United States Attorneys and their Districts, Washington, D.C. The panel discussed various resources available through the Department of Justice to assist U.S. Attorneys in implementing violence reduction strategies. I have no notes, transcript or recording. The address for the Office of Justice Programs of the Department of Justice is 810 Seventh Street, NW, Washington, DC 20531.

December 1999: Speaker, "Responding to a Culture of Violence," University of North Carolina School of Medicine, Chapel Hill. I used the same notes supplied for the 2001 event with the same event title.

October 14, 1999: Speaker, "New Faces of Justice: Challenges of Women Judges," 21st Annual Association of Women Judges Conferences, Miami, Florida. Notes supplied.

September 15, 1999: Speaker, "Strategic Prevention Approach," Forsyth County Women Attorneys, Winston-Salem, North Carolina. Remarks supplied.

June 1999: Panelist, "Safety and Strength in Our Homes, Streets, and Schools," Vice President Al Gore's Family and Community Conference, Vanderbilt

Institute for Public Policy Studies, Nashville, Tennessee. The panel discussed the need for comprehensive strategies to make communities safer. I have no notes, transcript or recording. The address for the Vanderbilt Institute for Public Policy Studies is 360 Commons Center, Nashville, Tennessee 37235.

April 1999: Panelist, Community Meeting to Stop Church Arson, The National Coalition for Burned Churches and Community Empowerment, Emmanuel Baptist Church, Winston-Salem, North Carolina. The panel discussed the growing trend of church burnings and what steps the community could take proactively to prevent these crimes. I have no notes, transcript or recording. The address for Emmanuel Baptist Church is 1075 Shalimar Drive, Winston-Salem, North Carolina 27107.

April 24, 1999: Speaker, "Addressing Violence in Urban Settings," Minority Family and Health Forum, Northwest Area Health Education Center Wake Forest University School of Medicine, Winston-Salem, North Carolina. Remarks supplied.

March 1999: Panelist, "Creating a Safe Environment for Families: Putting Our Heads Together, Exploring A Vision for the Children of North Carolina," North Carolina Department of Health and Human Services Division of Social Services and the Jordan Institute for Families, University of North Carolina at Chapel Hill, Chapel Hill, North Carolina. The panel discussed the impact of violent crime on communities and families and how social service agencies could work with law enforcement and others to coordinate services. I have no notes, transcript or recording. The address for the North Carolina Department of Health and Human Services Division of Social Services is 820 South Boylan Avenue, Raleigh, North Carolina 27603.

January 22, 1999: Keynote Speaker, Dedication Ceremony of the Women's Resource Center for Forsyth Technical Community College, Winston-Salem, North Carolina. Remarks supplied.

1995 – 1998: Panelist, General Remarks, First Year Law Students' Orientation, Wake Forest University School of Law, Winston-Salem, North Carolina. Remarks supplied.

1998: Speaker, Council on Legal Education Opportunities Scholars, Council on Legal Education Opportunities Program, Wake Forest University School of Law, Winston-Salem, North Carolina. Partial copy of remarks supplied.

October 1997: Speaker, "Neighbors for Better Neighborhoods," Community Leaders Breakfast, Winston-Salem Foundation, Winston-Salem, North Carolina. The panel discussed how individual members of the community can work together and with law enforcement to make their communities safe. I have no notes, transcript or recording. The address for the Winston-Salem Foundation is

860 West 5th Street, Winston-Salem, North Carolina 27101.

September 1997: Guest Lecturer, "Race and the Law," Department of History of Wake Forest University, Winston-Salem, North Carolina. My remarks addressed the various ways race comes into play in the criminal justice system including the selection of jurors. I have no notes, transcript or recording. The address for Wake Forest University is 1834 Wake Forest Road, Winston-Salem, North Carolina 27106.

May 13, 1997: Panelist, "Children at Risk in the Roanoke Valley, Can We Do More?," American Pediatric Association, Roanoke, Virginia. Remarks supplied.

May 8, 1997: Panelist, "The Criminal Justice System – Rising to the Challenge of Domestic Violence," Family Services of Winston-Salem, Forsyth County District Attorney's Office, Winston-Salem Police Department and Northwest AHEC Mental Health Section, Bowman Gray School of Medicine of Wake Forest University, Winston-Salem, North Carolina. Remarks supplied.

April 1997: Speaker, "Striving for Excellence," First Annual Visions of Excellency Banquet, Visionworks Youth Services, Inc., Winston-Salem, North Carolina. I discussed the importance of seeking excellence in all undertakings. I have no notes, transcript or recording. Upon information and belief Visionworks Youth Services, Inc. no longer exists as an agency in the Winston-Salem, North Carolina community.

April 1997: Speaker, "The Future We Are Creating Now," Leadership Winston-Salem Criminal Justice Day, Winston-Salem, North Carolina. Remarks supplied.

February 1997: Speaker, Remarks, New Hope African Methodist Episcopal Zion Church, Winston-Salem, North Carolina. I gave remarks concerning lifting our communities and strengthening communities through joint action. I have no notes, transcript, or recording. The address for the New Hope African Methodist Episcopal Zion Church is 7000 Shallowford Road, Lewisville, North Carolina 27023.

January 1997: Speaker, DARE Graduation, Griffith Elementary School, Winston-Salem, North Carolina. My remarks dealt with encouraging youth to stay away from drugs and to strive to achieve excellence. I have no notes, transcript or recording. The address for Griffith Elementary School is 1385 West Clemmonsville Road, Winston-Salem, North Carolina 27127.

January 15, 1997: Panelist, "How Can We Achieve Collaboration? The Roles of Government and Non-Profit Agencies," The Duke Endowment for Children and Families, Duke University, Durham, North Carolina. Remarks supplied.

1996: Speaker, "Community Safety," Neighborhood Watch Awards, Winston-



Salem Police Department, Winston-Salem, North Carolina. Remarks supplied.

December 1996: Speaker, Remarks, Winston Lake Family YMCA 71st Annual Meeting and Awards Reception, Winston-Salem, North Carolina. My remarks were in recognition of those youth who excelled in sports and academics. I have no notes, transcript or recording. The address for Winston Lake Family YMCA is 901 Waterworks Road, Winston-Salem, North Carolina 27101.

September 19, 1996: Speaker, "Prevention: Challenge for the Community," Community Service Awards Banquet, The Coalition for Drug Abuse Prevention, Winston-Salem, North Carolina. Partial copy of remarks supplied.

July 1996: Speaker, "Addressing School Violence," North Carolina Association of School Resource Officers, Raleigh, North Carolina. My remarks addressed the role of school resource officers in deterring violent crime in schools. I have no notes, transcript or recording. The address for the North Carolina Association of School Resource Officers is 4201 Mail Service Center, Raleigh, North Carolina 27699-4201.

May 1996: Speaker, "School Safety," Education Summit, The Forsyth Common Vision Council of Winston-Salem, Winston-Salem, North Carolina. My remarks addressed the role of schools as partners in addressing youth violence. I have no notes, transcript or recording. The address for The Forsyth Commission Vision Council is 101 North Main Street, Winston-Salem, North Carolina 27101.

April 4, 1996; April 10, 1996: Speaker, "Overview of the System," Leadership Winston-Salem Criminal Justice Day, Leadership Winston-Salem, Winston-Salem, North Carolina. Remarks and handout supplied.

March 1996: Speaker, "Public Safety and Economic Development," The Piedmont Triad Leadership Network, Greensboro, North Carolina. My remarks addressed how public safety issues influence and impact economic development. I have no notes, transcript or recording. The address for The Piedmont Triad Leadership Network is 1300 Spring Garden Street, Greensboro North Carolina 27402.

February 1996: Speaker, "Women Working for Girls," Salvation Army Boys and Girls Club Banquet, The Third Women Working for Girls Luncheon, Winston-Salem, North Carolina. My remarks addressed the need to empower and support girls to become future leaders. I have no notes, transcript or recording. The address for the Salvation Army Boys and Girls Club is 2100 Reynolds Park Road, Winston-Salem, North Carolina 27107.

January 1996: Judge, Frederick Douglass Moot Court Competition, Black Law Students' Association Southern Region, Wake Forest University School of Law, Winston-Salem, North Carolina. I served as a judge for mock trials involving law

students. I have no notes, transcript or recording. The address of the Wake Forest University School of Law is 1834 Wake Forest Road, Winston-Salem, North Carolina 27109.

January 1996: Lecturer, "Building a Strong Community," Salem College and Academy, Winston-Salem, North Carolina. My remarks addressed how we must create partnerships to create strong communities. I have no notes, transcript or recording. The address of the Salem College and Academy is 601 South Church Street, Winston-Salem, North Carolina 27101.

1994 – 1996: Guest Lecturer for Adjunct Professor Lawrence Fine's Juvenile Law Class, Wake Forest University School of Law, Winston-Salem, North Carolina. I discussed the strategic approach to reducing juvenile violence being employed by the United States Attorney's Office. I have no notes, transcripts, or recordings. The address for Wake Forest University School of Law is 1834 Wake Forest Road, Winston-Salem, North Carolina 27109.

1995: Speaker, "The Challenges of the Working Woman," American Business Women, Winston-Salem-Greensboro Chapter, Greensboro, North Carolina. Remarks and handout supplied.

September 1995: Speaker, "The Federal Youth Hand Gun Safety Act, Creating Safe School Communities," North Carolina Center for the Prevention of School Violence, Raleigh, North Carolina. I discussed the newly enacted legislation as a tool to address youth violence in schools. I have no notes, transcript or recording. The address of the North Carolina Center for the Prevention of School Violence is 4201 Mail Service Center, Raleigh, North Carolina 27699.

September 1995: Panelist, "Rising to the Challenge of Change – Reinventing Justice in America for the Year 2000," Second Annual Community Relations Issues Symposium, North Carolina Chapter of the National Association of Human Rights Workers, North Carolina Human Relations Commission, and Youth Advocacy and Involvement Office, Raleigh, North Carolina. The panel addressed the use of prevention strategies as a tool in fighting juvenile crime. I have no notes, transcript or recording. The address of the National Association of Human Rights Workers is 300 West Washington Street, Greensboro, North Carolina 27402.

August 1995: Speaker, Remarks, Mount Pleasant Baptist Church Summer Day Camp Program, Mount Pleasant Baptist Church, Winston-Salem, North Carolina. My remarks were made to youth and were motivational in nature, encouraging them to strive for excellence. I have no notes, transcript or recording. The address for Mount Pleasant Baptist Church is 495 NW Crawford Place, Winston-Salem, North Carolina 27105.

June 1995: Speaker, "Safe Communities," Second Annual Crime Reduction

Conference, Housing Authority of the City of Winston-Salem, Winston-Salem, North Carolina. My remarks addressed strategic approach to reducing crime. I have no notes, transcript or recording. The address for the Housing Authority of the City of Winston-Salem is 500 West 4th Street, # 300, Winston-Salem, North Carolina 27101.

June 1995: Speaker, "Delinquency: Conflict, Diversity, Our Problem, Our Challenge," North State Law Enforcement Officers' Association, Raleigh, North Carolina. Remarks supplied.

May 1995: Speaker, Guilford County Schools Mediation Showcase, North Carolina Department of Crime Control and Public Safety, Governor's Crime Commission, Raleigh, North Carolina. My remarks addressed mediation as a tool in addressing conflicts in schools early before escalating to criminal behavior. I have no notes, transcript or recording. The address for the Governor's Crime Commission is 4201 Mail Service Center, Raleigh, North Carolina 27699-4201.

May 1995: Speaker, Stop the Violence Neighborhood Unity Day Celebration, Mayor's Violence Reduction Task Force, Winston-Salem, North Carolina. My remarks addressed the need for the community to take ownership in stopping violent crime in their communities and working with law enforcement to do so. I have no notes, transcript or recording. The address for the Mayor's Violence Reduction Task Force is 100 North Main Street, # 150, Winston-Salem, North Carolina 27101.

March 1995: Speaker, "Reflection on Our Local Juvenile Justice System," Forsyth County Juvenile Justice Council, Winston-Salem, North Carolina. Partial copy of remarks supplied.

1994: Speaker, "Criminal Justice System – Is It Broke?" Juvenile Justice Council, Winston-Salem, North Carolina. Remarks supplied.

1987 – 1994: Guest Lecturer, Wake Forest University School of Law School Clinical Program, Winston-Salem, North Carolina. I was a guest lecturer on a number of occasions discussing issues related to courtroom etiquette, professionalism, and trial practice. I have no notes, transcripts, or recordings. The address at Wake Forest University School of Law is 1834 Wake Forest Road, Winston-Salem, North Carolina 27109.

1987 – 1994: Guest Lecturer, Adjunct Professor Gary Tash's Juvenile Law Class, Wake Forest University School of Law, Winston-Salem, North Carolina. I have been a guest lecturer for this class on a number of occasions. I typically discussed juvenile law and procedure as well as the court's goals and unique approach to trying and sentencing juvenile offenders. I have no notes, transcript, or recording. The address for the Wake Forest University School of Law is 1834 Wake Forest Road, Winston-Salem, North Carolina 27109.

1993: Speaker, "Violent Juveniles," Mayor's Task Force on Youth Violence, Winston-Salem, North Carolina. Partial copy of notes supplied.

1990 – 1993: Speaker, New Attorneys' Orientation, Forsyth County Hall of Justice, Forsyth County Bar Association, Winston-Salem, North Carolina. Remarks supplied.

January – November 1992: While running to retain my seat as a state district court judge for the 21st Judicial District of Forsyth County, North Carolina, I gave a number of campaign speeches, and participated in candidate forums and debates. I spoke to numerous civic, political and professional organizations. Although I do not recall every group or organization to which I spoke, such organizations would have included local churches, the Forsyth County Democratic Party, the various rotary clubs of Forsyth County, the Winston-Salem Chamber of Commerce, and local colleges and universities, including Winston-Salem State University, Wake Forest University, and Salem College and Academy. After reviewing my files and public records, I could not determine the specific dates or locations of these meetings. At all events, I shared my qualifications, experience, and community involvement. I have no notes, transcripts, or recordings.

May 1992: Speaker, Law Enforcement Memorial Service, Winston-Salem Police Department, Winston-Salem, North Carolina. Notes supplied.

January – November 1988: While running to retain my seat as a state district court judge for the 21st Judicial District of Forsyth County, North Carolina, I gave a number of campaign speeches and participated in candidate forums and debates. I spoke to numerous civic, political and professional organizations. Although I do not recall every group or organization to which I spoke, such organizations would have included local churches, the Forsyth County Democratic Party, the various rotary clubs of Forsyth County, the Winston-Salem Chamber of Commerce, and local colleges and universities, including Winston-Salem State University, Wake Forest University, and Salem College and Academy. After reviewing my files and public records, I could not determine the specific dates or locations of these meetings. At all events, I shared my qualifications, experience, and community involvement. I have no notes, transcripts, or recordings.

- 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.

Layla Garms, Hayes Set Example of Excellence, Winston-Salem Chronicle, February 14, 2013. Copy supplied.

Layla Garms, Doves Come Out for Judge's Send-Off Celebration, Winston-Salem Chronicle, December 14, 2012. Copy supplied.

Emery P. Dalesio, NASCAR CEO Tries to Keep Court Hearings Private, USA Today, September 25, 2012. Copy supplied.

Phoebe Zerwick, Why Didn't They Stop Him?, O, The Oprah Magazine, August 1, 2009. Copy supplied.

Suzanne Reynolds, Suzanne Reynolds Declares Candidacy for NC Supreme Court, Blue Ridge News, November 13, 2007. Copy supplied.

Jeanne Sturiale, Business Milestones, Winston-Salem Journal, February 11, 2007. Copy supplied.

Elizabeth Amon, Not All Black And White, American Lawyer, May 2004. Copy supplied.

John Railey, King's Words Will Resound Again In Series Of Readings Local Leaders Will Read From Controversial Speeches That He Made In The Two Years Before He Died, Winston-Salem Journal, September 10, 2003. Copy supplied.

Theo Helm, Woman Gets Legal Custody of 2 Children Estranged Husband Stabbed Her, Killed Her Daughter Last Fall, Winston-Salem Journal, March 18, 2003. Copy supplied.

Special to the Chronicle, Biggs Joins Local Firm, Winston-Salem Chronicle, January 30, 2003. Copy supplied.

Kristi E. Swartz, Biggs, Former Judge, Joins Local Practice, Winston-Salem Journal, January 30, 2003. Copy supplied.

Judge Loretta C. Biggs, Biggs Seat, The Defender, Fall 2002. Copy supplied.

John Hinton, Judicial Challenger Makes Direct Appeal Steelman Says He's More Qualified; Biggs Disappointed by "Potshot," Winston-Salem Journal, October 7, 2002. Copy supplied.

Emery P. Dalesio, Court Rules Burger King Employee Can't Sue and Take Workers' Comp, Star News Online, August 21, 2002. Copy supplied.

Uncredited, Covering the Courts System Helps Journalists, AOC News, June 10, 2002. Copy supplied.

Courtney Gaillard, Black Law School Students Hear from Biggs at Annual Banquet, Winston-Salem Chronicle, February 28, 2002. Copy supplied.

Jill Doss-Raines, Help Children Achieve Their Dreams, Speaker Says, The-Dispatch, January 22, 2002. Copy supplied.

T. Kevin Walker, Starting Early, Appeals Court Judge Loretta Biggs Already Campaigning for November 2002, Winston-Salem Chronicle. I have been unable to determine the exact date of the publication. Copy supplied.

Felecia P. McMillian, Biggs Runs for Court of Appeals; The AC Phoenix, December 2001. Copy supplied.

Wade Rawlins, Three Judges Must Run in 2002, The News & Observer, December 19, 2001. Copy supplied.

Editorial, Reducing Juvenile Crime, Winston-Salem Journal, April 11, 2001. Copy supplied.

Editorial, Community Safety, Winston-Salem Journal, March 30, 2001. Copy supplied.

T. Kevin Walker, Local Woman Does Well, Winston-Salem Chronicle, February 22, 2001. Copy supplied.

Matthew Easley, Appeals Bench Lacks One Judge, The News & Observer, February 17, 2001. Copy supplied.

David Rice, Biggs Appointed to Seat on Court of Appeals, Winston-Salem Journal, January 6, 2001. Copy supplied.

Special to the Chronicle, Biggs To Receive Award For Work In Building Safer Communities, Winston-Salem Chronicle, December 14, 2000. Copy supplied.

John Hinton, Talk, Then Do: Biggs Honored for Guiding Juvenile-Justice Efforts, Winston-Salem Journal, December 8, 2000. Copy supplied.

Former Judge Biggs Receives Attorney General's Award, The AC Phoenix, August 1999. Copy supplied.

Felecia P. McMillian, Biggs Honored by Attorney General, Winston-Salem Chronicle, July 22, 1999. Copy supplied.

Patrick Flanigan, Center Provides a Safe Haven, The Herald-Sun, May 30, 1999. Copy supplied.

Paula Christian, Man Gets Prison Sentence In Child Pornography Case, Greensboro News & Record, February 25, 1998. Copy supplied.

Felecia P. McMillian, Law & Order, Winston-Salem Chronicle Community Focus, July 10, 1997. Copy supplied.

Jeri Rowe, Man Gets Jail, Fine In Child Porn Case, Greensboro News & Record, March 22, 1996. Copy supplied.

Jeri Rowe, Shape Up, Community's Owners Told, Greensboro News and Record, October 7, 1995. Copy supplied.

Jeri Rowe, Other Areas May Copy Complex's Crime Fight, Greensboro News & Record, September 11, 1995. Copy supplied.

Biggs Receives Youth Services Award, Winston-Salem, December 1, 1994. Copy supplied.

Ian Hoffman, Search is on for a District Court Judge to Replace Biggs, Winston-Salem Journal, July 22, 1994. Copy supplied.

Richard L. Williams, Judge Biggs to Join U.S. Attorney's Office, Winston-Salem Chronicle, July 7, 1994. Copy supplied.

Richard L. Williams, Biggs Could Be Positioned for Federal Judgeship, Winston-Salem Chronicle, July 7, 1994. Copy supplied.

Richard L. Williams, Lawyers, Judges Happy for Judge Biggs, Heap Her with Praise, Winston-Salem Chronicle, July 7, 1994. Copy supplied.

Leigh A. Dyer and Ian Hoffman, Biggs Expected to Leave Judgeship to Take Assistant U.S. Attorney Job, Winston-Salem Journal, July 6, 1994. Copy supplied.

Mark R. Moss, It's Like Winning the Nobel Prize, Winston-Salem Chronicle, March 10, 1994. Copy supplied.

Richard L. Williams, Mendez, Biggs, Graham-Wheeler: Man, Women of the Year, Winston-Salem Chronicle, February 13, 1994. Copy supplied.

Kelly Thompson, Theater Is The Star At Festival, Greensboro News & Record, August 3, 1993. Copy supplied.

Tom Sieg, No-Nonsense Loretta Biggs, Style, May 6-12, 1992. Copy supplied.

Judge Biggs To Seek Re-Election In 1992. I have been unable to identify the date of the article. Copy supplied.

Special to the Chronicle, Easley Names Biggs to Campaign Financing Council, Winston-Salem Chronicle. I have been unable to identify the date of the article. Copy supplied.

Winston-Salem Journal Staff Report, Judge Biggs Says She'll Run for Re-Election, Winston-Salem Journal, December 17, 1991. Copy supplied.

Winston-Salem Journal Staff Report, Reno Will Honor 2 Who Help Local Youths, Winston-Salem Journal. I have been unable to identify the date of the article. Copy supplied.

Robert Brown, Here Comes the Judge! From Ivory Tower To People Court, The AC Phoenix, February 1987. 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.

In 1987, I was appointed by Governor James G. Martin to fill the unexpired term for a retired judge on the North Carolina State District Court, 21st Judicial District. I was retained in elections to four-year terms in 1988 and 1992. I left the state court bench in 1994 to accept the appointment as an Assistant United States Attorney. The district courts have divisions that include civil, criminal, juvenile, and magistrate matters. This includes jurisdiction over civil cases involving matters with generally less than \$10,000 in controversy and criminal cases involving misdemeanors, infractions, and probable cause hearings for felony cases. The district courts also have original jurisdiction over divorce, child custody, and child support cases. While in the court, I presided over cases from the civil (including child custody and child support matters), criminal, and juvenile divisions.

In 2001, I was appointed by Governor James B. Hunt, Jr., to serve as an associate judge on the North Carolina Court of Appeals, the state's intermediate appellate court. The seat on the court to which I was appointed was a newly created seat by the state legislature, which required that I run a state-wide race for election to the court in November 2002. I was not successful in my bid for election to the seat. The North Carolina Court of Appeals has jurisdiction over all civil and criminal cases appealed from the superior and district courts (state trial courts), except in capital murder cases where death is imposed, which go directly to the North Carolina Supreme Court. In addition, the North Carolina Court of Appeals also hears direct appeals from certain of the state's administrative agencies.

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



As a state district court judge I presided over hundreds of cases each month, depending on the case load in the court rotation to which I was assigned. Most of these cases were resolved by verdict, judgment, guilty pleas, or mediated settlements. Approximately one fourth of these cases required trials, most of which were bench trials. As a court of appeals judge, I did not preside over cases in the traditional sense.

i. Of these, approximately what percent were:

jury trials:	10%
bench trials:	90%
civil proceedings:	50%
criminal proceedings:	50%

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

See attached list.

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).

As a state district court judge I presided over hundreds of cases, none of which were transcribed except that the verdict, judgment, guilty plea or other resolution was written in the case file or file jacket. The files for these cases are kept at the Forsyth County clerk's office in Winston-Salem, North Carolina. When the clerk's office automated its files in 1998, the judge's name assigned to the case was not a required entry. The files are indexed by the names of litigants and file numbers. The clerk's office is unable to query by judge's name, which has precluded the identification of cases that I heard during the time I was in district court.

Although I did not preside over the trial of cases in the traditional sense as an appellate judge, I have provided information related to ten cases for which I wrote the opinion for the court and for which I sat on the panel that presided during oral argument of the appeal:

1. Durling v. King, 146 N.C. App. 483, 554 S.E.2d 1 (2001)

This case involved a lawsuit between contracting sales representatives and subcontracting sales representatives alleging claims that included breach of contract and unfair and deceptive trade practices under North Carolina's

Unfair and Deceptive Trade Practices Statute. The defendant appealed from a jury verdict in superior court in favor of the plaintiff's breach of contract claim and the jury's finding that there was a basis for an unfair and deceptive trade practices claim. The plaintiff also appealed a denial by the trial court to award treble compensatory damages and attorney fees pursuant to the unfair and deceptive trade practices statute. I wrote the opinion for the court, affirming in part and reversing in part. We affirmed the jury verdict in favor of the plaintiff's breach of contract claim and the trial court's ruling in favor of the defendant that the evidence did not establish unfair or deceptive trade practices so as to justify an award of treble damages or attorney's fees. We reversed and vacated the jury's finding that there was a basis for unfair and deceptive trade practices.

Attorney for appellant: Michael J. Newman  
Van Camp Meacham & Newman, PLLC  
2 Regional Circle  
Pinchurst, North Carolina 28374  
910-295-2525

Attorneys for appellee: Daniel G. Cahill  
Poyner Spruill, LLC  
301 Fayetteville Street, Suite 1900  
Raleigh, North Carolina 27601  
919-783-6400

Kieran J. Shanahan  
Shanahan Law Group, PLLC  
128 East Hargett Street, Suite 300  
Raleigh, North Carolina 27601  
919-856-9494

2. Hobbs v. Clean Control Corp., 154 N.C. App. 433, 571 S.E.2d 860 (2002)

This case involved an appeal from an opinion of the North Carolina Industrial Commission denying the plaintiff's claim for worker's compensation and concluding that plaintiff failed to establish the requisite elements of a compensable occupational disease. Within eight months of starting work for her employer conducting sales demonstrations for customers, the plaintiff consulted a physician for arm and elbow pain. After surgery, the pain continued, and the plaintiff sought worker's compensation benefits. After the Commission denied her claim, the plaintiff appealed. I wrote the opinion for the court of appeals, which affirmed the judgment of the Commission, concluding that the Commission's findings were supported by competent evidence and the findings justified its conclusions.

Attorneys for appellee: Jeffrey A. Misenheimer  
 Timothy S. Riordan  
 Lewis & Roberts, PLLC  
 3700 Glenwood Avenue  
 Raleigh, North Carolina 27612  
 919-981-0191

Attorneys for appellant: Michael W. Ballance  
 Dickie McCamey, Attorneys At Law  
 8000 Regency Parkway, Suite 485  
 Cary, North Carolina 27518-8580  
 919-337-4644

George W. Lennon  
 Lennon, Camak & Bertics, PLLC  
 4700 Homewood Court, Suite 310  
 Raleigh, North Carolina 27606  
 919-856-9000

3. In re Will of Allen, 148 N.C. App. 526, 559 S.E.2d 556 (2002)

This case involved a challenge to the validity of a holographic will. Upon Mr. Allen's death, a handwritten will was found among other papers in a wooden bowl on the kitchen counter. The will included phrases that appeared to be written with a different pen. Caveators alleged that the will was not a validly executed holographic will and moved for a directed verdict at the close of the propounder's evidence and again at the close of all the evidence. The motions were denied by the superior court and the issue of the validity of the will was submitted to the jury, which returned a verdict in favor of the propounders. Caveators argued on appeal that the superior court erred in its denial of their motion for a directed verdict. I wrote the opinion for the court. We affirmed the trial court, stating that the trial court's ruling on a directed verdict motion is addressed to the court's discretion, and will not be overturned absent an abuse of discretion. We concluded that the trial court properly submitted the case to the jury in that there were questions of fact to present to the jury related to the authorship of the will, whether the remainder of the will expressed Mr. Allen's intention irrespective of the phrases written with a different pen, and the location where the will was found.

Attorney for appellant: Jimmy L. Love, Sr.  
 Love & Love, P.A.  
 315 McIntosh Street  
 Sanford, North Carolina 27330  
 919-775-7119

Attorney for appellee: Eddie S. Winstead, III  
 Harrington, Gillenland, Winstead, Feindel &  
 Lucas, L.L.P.  
 1410 Elm Street  
 Sanford, North Carolina 27330  
 919-776-4131

4. North Carolina State Bar v. Talford, 147 N.C. App. 581, 556 S.E.2d 344 (2001)

This case involved a direct appeal from an Order of Disbarment by the North Carolina State Bar Disciplinary Hearing Commission. The commission had found that the attorney had violated North Carolina's Rules of Professional Conduct regarding maintenance of client funds and imposed the sanction of disbarment. I wrote the opinion for the court affirming in part and reversing and remanding in part. Because no issue of legal interpretation was raised on appeal, the standard of review applied by the appellate court was abuse of discretion. We held that the commission did not abuse its discretion in its finding that the defendant-appellant had violated the North Carolina Rules of Professional Conduct governing the attorney's maintenance of client's funds held in his trust account. We reversed the imposition of the sanction of disbarment finding that the commission-appellee had abused its discretion and remanded the case to the trial court with instructions to impose a sanction consistent with the court's opinion.

Attorney for appellant: Irving Joyner  
 North Carolina Central University  
 School of Law  
 640 Nelson Street  
 Durham, North Carolina 27707  
 919-530-6293

Attorney for appellee: Carolin Bakewell  
 Bakewell & Belo, PLLC  
 3201-141 Edwards Mill Road  
 PMB# 127  
 Raleigh, North Carolina 27612  
 919-306-0116

Clayton W. Davidson, III  
 (current business contact information  
 unavailable)

5. Occaneechi Band of Saponi Nation v. North Carolina Commission of Indian Affairs, 145 N.C. App. 649, 551 S.E.2d 535 (2001)

This case arose from a petition by the Eno Occaneechi Indian Association to the North Carolina Commission of Indian Affairs requesting recognition as a North Carolina Indian Tribe. Although the administrative law judge initially recommended that the tribe be granted recognition, the commission denied tribal recognition. On appeal to the trial court, the petitioner argued that because the commission had not rendered its decision within the statutorily-prescribed time, the administrative law judge's decision was the operative decision. In affirming the commission's decision, even though it was outside of the statutory period, the trial court stated that the time limit was intended to be presumptive, not absolute, and thus if the agency could demonstrate reasonableness in the delay, the statute did not apply. I wrote the opinion for the court, wherein we reversed and remanded the case to the trial court. We concluded that the commission-appellee did not issue its final decision in accordance with the statutory requirements, and that by operation of the statute the recommended decision by the administrative law judge became the final decision.

Attorneys for appellant: Alan McSurely  
McSurely & Turner, PLLC  
109 North Graham Street, Suite 100  
Chapel Hill, North Carolina 27516  
919-967-3311

Ashley Osment  
(deceased)

Attorneys for appellee: Michael F. Easley  
(Formerly of North Carolina Attorney  
General's Office)  
McGuireWoods  
434 Fayetteville Street, Suite 2600  
Raleigh, North Carolina 27601  
919-755-6600

D. David Steinback Jr.  
(retired)

6. Prior v. Pruett, 143 N.C. App. 612, 550 S.E.2d 166 (2001)

This case involved a wrongful death claim brought by the administrators of a shooting victim's estate pursuant to §1983 for a violation of the plaintiff-decedent's civil rights and a claim for relief under North Carolina

common law for wrongful death. The case was initially brought in the superior court of Burke County and was subsequently removed to federal court by the estate administrators. The federal district court granted defendants' motion for summary judgment on the §1983 action, declined to exercise supplemental jurisdiction over the state claims, and remanded the state claims to superior court. On remand, the superior court denied the defendants' motion for judgment on the pleadings. Defendants appealed, and the court of appeals affirmed the superior court. On remand the defendant-appellees moved for summary judgment on the state claim of negligence and contributory negligence, which the superior court granted, and it is this decision that was the subject of this appeal. I wrote the opinion of the court, wherein we reversed the grant of summary judgment on the claims of negligence and contributory negligence by the superior court. We held that the trial court erred in granting summary judgment in favor of the defendants in that there existed genuine issues of fact precluding summary judgment.

Attorney for appellant: C. Frank Goldsmith Jr.  
Goldsmith, Goldsmith & Dew, P.A.  
57 South Main Street  
Marion, North Carolina 28752  
828-652-3000

Attorneys for appellee: G. Michael Barnhill  
W. Clark Goodman  
Womble Carlisle Sandridge & Rice  
One Wells Fargo Center, Suite 3500  
301 South College Street  
Charlotte, North Carolina 28202  
704-331-4900

7. State v. Johnson, 143 N.C. App. 307, 547 S.E.2d 445 (2002)

This case involved the conviction of a defendant in superior court for felonious possession with intent to sell and deliver cocaine and maintaining a dwelling for keeping and selling cocaine. The trial court denied the defendant's motion to suppress physical evidence seized pursuant to a search warrant. The defendant then entered a guilty plea, reserving the right to appeal the validity of the strip search conducted by the officer. The defendant appealed the denial of the motion to suppress, contending that the strip search performed by the officer violated his rights under the Fourth Amendment of the U.S. Constitution and under Article 1 of the North Carolina Constitution. I wrote the opinion for the court. We affirmed defendant-appellant's conviction and sentence, holding that the strip search did not exceed the scope of the warrant and that the search was not unreasonable under the circumstances.

Attorneys for appellant: Malcolm R. Hunter Jr.  
Center of Death Penalty Litigation  
201 West Main Street, Suite 301  
Durham, North Carolina 27701  
919-956-9545

Constance E. Wideham  
(current business contact information  
unavailable)

Attorneys for appellee: Michael F. Easley  
(Formerly of North Carolina Attorney  
General's Office)  
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Douglas W. Hanna  
Graebe Hanna & Sullivan, PLLC  
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919-863-9090

8. State v. Tarlton, 146 N.C. App. 417, 553 S.E.2d 50 (2001)

This case involved the defendant's stop at a driving-while-impaired checkpoint. The defendant filed a motion to suppress alleging the stop was unconstitutional. The district court denied the motion. After being convicted in district court, the defendant appealed the denial of his motion to suppress to superior court. The superior court denied his motion to suppress once again. I wrote the opinion for this court. We affirmed the defendant-appellant's conviction holding that the stop was constitutionally permissible under the Fourth Amendment.

Attorneys for appellant: John D. Loftin  
Loftin & Loftin, P.A.  
117 North Churton Street  
Hillsboro, North Carolina 27278  
919-732-9748

J. Matthew Martin  
Martin & Martin, P.C.  
7250 Frankford Avenue

Philadelphia, Pennsylvania 19135  
215-331-2630

Attorney for appellee: Isaac T. Avery, III  
2904 Oberry Street  
Raleigh, North Carolina 27607  
919-829-2523

9. Town of Ayden v. Town of Winterville, 143 N.C. App. 136, 544 S.E.2d 821 (2001)

This case involved issues of annexation. With the consent of the neighborhood in question, the Town of Winterville (“Winterville”) had annexed an adjoining neighborhood in the Town of Ayden (“Ayden”). Ayden filed suit for a declaratory judgment invalidating the annexation ordinance. The trial court granted Winterville’s motion for dismissal, and Ayden appealed. I wrote the opinion for the court of appeals. We affirmed the trial court’s holding that Ayden-appellant did not have standing to challenge the annexation and that there was no justiciable controversy between the towns.

Attorneys for appellant: Michael B. Brough  
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1829 East Franklin Street, Suite 800A  
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919-929-3905

Christopher P. Edwards  
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Robert E. Hornick Jr.  
The Brough Law Firm  
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919-929-3905

Attorneys for appellee: E. Keen Lassiter  
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252-355-1135



Robin Tatum Morris  
 Poyner Spruill, LLC  
 301 Fayetteville Street, Suite 1900  
 Raleigh, North Carolina 27601  
 919-783-6400

10. Zimmerman v. Appalachian State University, 149 N.C. App. 121, 560 S.E.2d 374 (2002)

This case involved a faculty member at Appalachian State University who petitioned Appalachian State University's chancellor and trustees to be reappointed to the faculty. The administration denied the petition, and the petitioner appealed to the board of governors. The board of governors denied the petition, and the petitioner appealed to the superior court. The trial court held that the board of governors' decision was arbitrary and ordered that petitioner be reinstated. Respondents appealed to the court of appeals. I wrote the opinion of the court, which reversed the trial court's ruling, holding that the university administrators had the authority and the power to overrule the dean's recommendation of the faculty member's reappointment and further that there was insufficient evidence to support faculty member's allegations that decisions by university administrators to not reappoint him were wrongful.

Attorney for appellant: John W. Gresham  
 Tin Fulton Walker & Owen, PLLC  
 301 East Park Avenue  
 Charlotte, North Carolina 28203  
 704-338-1220

Attorney for appellee: Roy A. Cooper  
 Attorney General  
 9001 Mail Service Center  
 Raleigh, North Carolina 27699  
 919-716-6400

- 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.

1. Durling v. King, 146 N.C. App. 483, 554 S.E.2d 1 (2001)

Attorney for appellant: Michael J. Newman  
 Van Camp Meacham & Newman, PLLC  
 Two Regional Circle

Pinehurst, North Carolina 28374  
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Raleigh, North Carolina 27601  
919-856-9494

2. Hobbs v. Clean Control Corp., 154 N.C. App. 433, 571 S.E.2d 860 (2002)

Attorneys for appellee: Jeffrey A. Misenheimer  
Timothy S. Riordan  
Lewis & Roberts, PLLC  
3700 Glenwood Avenue  
Raleigh, North Carolina 27612  
919-981-0191

Attorneys for appellant: Michael W. Ballance  
Dickie McCamey, Attorneys At Law  
8000 Regency Parkway, Suite 485  
Cary, North Carolina 27518  
919-337-4644

George W. Lennon  
Lennon, Camak & Bertics, PLLC  
4700 Homewood Court, Suite 310  
Raleigh, North Carolina 27606  
919-856-9000

3. In re Will of Allen, 148 N.C. App. 526, 559 S.E.2d 556 (2002)

Attorney for appellant: Jimmy L. Love, Sr.  
Love & Love, P.A.  
315 McIntosh Street  
Sanford, North Carolina 27330  
919-775-7119

Attorney for appellee: Eddie S. Winstead, III  
 Harrington, Gillenland, Winstead, Feindel &  
 Lucas, L.L.P.  
 1410 Elm Street  
 Sanford, North Carolina 27330  
 919-776-4131

4. North Carolina State Bar v. Talford, 147 N.C. App. 581, 556 S.E.2d 344 (2001)

Attorney for appellant: Irving Joyner  
 North Carolina Central University  
 School of Law  
 640 Nelson Street  
 Durham, North Carolina 27707  
 919-530-6293

Attorney for appellee: Carolin Bakewell  
 Bakewell & Belo, PLLC  
 3201-141 Edwards Mill Road  
 PMB# 127  
 Raleigh, North Carolina 27612  
 919-306-0116

Clayton W. Davidson, III  
 (current business contact information  
 unavailable)

5. Occaneechi Band of Saponi Nation v. North Carolina Commission of Indian Affairs, 145 N.C. App. 649, 551 S.E.2d 535 (2001)

Attorneys for appellant: Alan McSurely  
 McSurely & Turner, PLLC  
 109 North Graham Street, Suite 100  
 Chapel Hill, North Carolina 27516  
 919-967-3311

Ashley Osment  
 (deceased)

Attorneys for appellee: Michael F. Easley  
 (Formerly of North Carolina Attorney  
 General's Office)  
 McGuireWoods  
 434 Fayetteville Street, Suite 2600

Raleigh, North Carolina 27601  
919-755-6600

D. David Steinback Jr.  
(retired)

6. Prior v. Pruett, 143 N.C. App. 612, 550 S.E.2d 166 (2001)

Attorney for appellant: Frank C. Goldsmith Jr.  
Goldsmith, Goldsmith & Dew, P.A.  
57 South Main Street  
Marion, North Carolina 28752  
828-652-3000

Attorneys for appellee: Michael C. Barnhill  
Womble Carlisle Sandridge & Rice  
One Wells Fargo Center, Suite 3500  
301 South College Street  
Charlotte, North Carolina 28202  
704-331-4900

Clark W. Goodman  
Womble Carlisle Sandridge & Rice  
One Wells Fargo Center, Suite 3500  
301 South College Street  
Charlotte, North Carolina 28202  
704-331-4900

7. State v. Demos, 148 N.C. App. 343, 559 S.E.2d 17 (2002)

Attorney for appellant: David G. Belser  
Belser Law Firm  
17 North Market Street  
Asheville, North Carolina 28801  
828-258-1500

Attorney for appellee: Roy A. Cooper  
Attorney General  
9001 Mail Service Center  
Raleigh, North Carolina 27603  
919-716-6400

8. State v. Tarlton, 146 N.C. App. 417, 553 S.E.2d 50 (2001)

Attorneys for appellant: John D. Loftin  
Loftin & Loftin, P.A.

117 North Churton Street  
Hillsboro, North Carolina 27278  
919-732-9748

J. Matthew Martin  
Martin & Martin, P.C.  
7250 Frankford Avenue  
Philadelphia, Pennsylvania 19135  
215-331-2630

Attorney for appellee: Isaac T. Avery, III  
2904 Oberry Street  
Raleigh, North Carolina 27607  
919-829-2523

9. Town of Ayden v. Town of Winterville, 143 N.C. App. 136, 544 S.E.2d 821 (2001)

Attorneys for appellant: Michael B. Brough  
Brough Law Firm  
1829 East Franklin Street, Suite 800A  
Chapel Hill, North Carolina 27514  
919-929-3905

Christopher R. Edwards  
3697 North Main Street  
Farmville, North Carolina 27828  
252-753-5111

Robert E. Hornick Jr.  
The Brough Law Firm  
1829 E. Franklin Street, Suite 800-A  
Chapel Hill, North Carolina 27514  
919-929-3905

Attorneys for appellee: E. Keen Lassiter  
E. Keen Lassiter Law Offices, PA  
102-C Regency Boulevard  
Greenville, North Carolina 27834  
252-355-1135

Robin Tatum Morris  
Poyner Spruill, LLC  
301 Fayetteville Street, Suite 1900  
Raleigh, North Carolina 27601  
919-783-6400

10. Zimmerman v. Appalachian State University, 149 N.C. App. 121, 560 S.E.2d 374 (2002)

Attorney for appellant: John W. Gresham  
Tin Fulton Walker & Owen, PLLC  
301 East Park Avenue  
Charlotte, North Carolina 28203  
704-338-1220

Attorney for appellee: Roy A. Cooper  
Attorney General  
9001 Mail Service center  
Raleigh, North Carolina 27699  
919-716-6400

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

State v. Johnson, No. COA00-1336, 2002 WL 276219 (N.C. App. Feb. 5, 2002), *cert. denied*, 537 U.S. 838 (2002).

- 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.

Goodwin v. Webb, 152 N.C. App. 650, 568 S.E.2d 311 (2002), *rev'd*, 357 N.C. 40, 577 S.E.2d 621 (2003), *rev'd*, 357 N.C. 40, 577 S.E.2d 621 (2003).

Writing for the majority in Goodwin, I reversed the trial court's entry of summary judgment for decedent's estate, holding that a genuine issue of material fact as to whether the decedent's wife had ratified a separation agreement precluded summary judgment. Judge Greene dissented, stating that he did not believe that a genuine issue of fact existed as to ratification because the plaintiff had accepted all the benefits under the agreement and was not under duress at the time she accepted those benefits. The North Carolina Supreme Court reversed the majority opinion for the reasons stated by Judge Greene's dissent.

City of New Bern v. Carteret-Craven Elec. Membership Corp., 145 N.C. App. 140, 548 S.E.2d 845 (2001), *rev'd*, 356 N.C. 123, 567 S.E.2d 131 (2002).

Writing for the court in City of New Bern, I affirmed the trial court's entry of partial summary judgment for the municipal electric company ("plaintiff"), entitling it to permanent injunctive relief and damages from the electric

membership corporation (“defendant”), and held that the plaintiff had an exclusive statutory right to serve the animal hospital’s new building, based on an interpretation of the word “premises” under North Carolina law. The North Carolina Supreme Court reversed the decision, concluding that the new animal hospital buildings constituted separate premises under the statutes, and thus plaintiff did not have an exclusive right to service the new building.

Campbell v. N. Carolina Dep’t. of Human Res., 153 N.C. App. 305, 569 S.E.2d 670 (2002), abrogation recognized by Wos v. E.M.A. ex rel. Johnson, 133 S. Ct. 1391 (2013).

Writing for the court in Campbell, I affirmed the trial court’s order directing the minor (“plaintiff”) to reimburse the Department of Human Resources, Division of Medical Assistance for medical assistance benefits it paid to the plaintiff’s medical providers for services rendered to plaintiff following an automobile accident. We agreed with the trial court’s finding that plaintiff was a beneficiary and recipient under N.C. Gen. Stat. §§ 108A-57 and 108A-59, respectively. In Wos v. E.M.A. ex rel. Johnson, 133 S. Ct. 1391 (2013), the United States Supreme Court held that the federal Medicaid anti-lien statute, 42 U.S.C. § 1396p(a)(1), preempts N.C. Gen. Stat. §108A-57. In explaining its decision in Wos, the United States Supreme Court used Campbell and other North Carolina cases to illustrate how North Carolina cases had interpreted its statute to allow for Medicaid reimbursement in a way that the Supreme Court later found inconsistent with federal law.

- 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.

None of my opinions as a district court judge were published. They were not transcribed and are housed in the Office of the Clerk of Superior Court of Forsyth County. When the cases were automated in 1998, the judge’s name was not a required entry. As a result, the opinions are not searchable by judge.

Approximately half of the court of appeals opinions, concurrences, and dissents written by me (65 of 126 opinions) are unpublished. The disposition in the unpublished decisions appears in a reporter table in the North Carolina Court of Appeals Reporters. The full opinions of these unpublished decisions are available on Westlaw and LexisNexis.

- 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.

State v. Carter, No. COA01-1230, 2002 WL 31056696 (N.C. App. Sept. 17, 2002).

State v. Colbert, 146 N.C. App. 506, 553 S.E.2d 221 (2001).

State v. Covington, No. COA02-131, 2002 WL 1797084 (N.C. App. Aug. 6, 2002).

State v. Davenport, No. COA01-163, 2002 WL 1013527 (N.C. App. May 21, 2002).

Holcomb v. Holcomb, No. COA01-59, 2002 WL 416985 (N.C. App. March 19, 2002).

State v. Johnson, 143 N.C. App. 307, 547 S.E.2d 445 (2001).

State v. Kinlock, 152 N.C. App. 84, 566 S.E.2d 738, (2002) aff'd, 357 N.C. 48, 577 S.E.2d 620 (2003) (dissenting opinion).

State v. Quick, No. COA01-192, 2002 WL 485371 (N.C. App. April 2, 2002).

State v. Sutton, No. COA01-760, 2002 WL 1542816 (N.C. App. July 16, 2002).

State v. Tarlton, 146 N.C. App. 417, 553 S.E.2d 50 (2001).

- 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 never sat by designation on a federal court of appeals.

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 do not recall ever recusing myself from a case or being asked to recuse myself. In the jurisdiction in which I presided, recusal determinations are made on a case-by-case basis with the presiding judge making his/her own decision as to whether a recusal should occur.

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.

From 2007 to 2010, I served on the North Carolina Innocence Inquiry Commission after being appointed by Governor Michael F. Easley.

In 2006, I was appointed to the Commission for Judicial Campaign Finance Reform by Governor Michael F. Easley. The Commission was never convened.

From 2000 to 2006, I served on the Military Academy Selection Board for the Fifth Congressional District after being appointed by then-Congressman Richard M. Burr (now Senator Richard M. Burr).

From 1999 to 2000, I served on the North Carolina State Advisory Council on Juvenile Justice and Delinquency Prevention after being appointed by Governor James B. Hunt.

From 1997 to 1999, I served on the Governor's Task Force on Youth Violence and Community Safety after being appointed by Governor James B. Hunt.

From 1993 to 1995, I served on the Mayor's Violence Reduction Task Force for the City Of Winston-Salem, after being appointed by Mayor Martha Wood.

In February 1994, I was appointed to serve on the State Legislative Council to Revise the Juvenile Code by Daniel T. Blue, Jr., the Speaker of the North Carolina House of Representatives. I resigned from the Council upon my appointment as an Assistant United States Attorney later that year.

In 2002, I ran unsuccessfully to retain my seat on the North Carolina Court of Appeals.

- 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.

In 2014, I endorsed Judge Mark Davis in his bid to retain his seat on the North Carolina Court of Appeals and Judge Robin Hudson in her bid to retain her seat on the North Carolina Supreme Court. On August 29, 2013, I co-hosted a fundraiser for Senator Kay Hagan in her reelection campaign to retain her U.S. Senate seat. In 2010, I endorsed North Carolina Court of Appeals Judge Bob C. Hunter in his bid to become a North Carolina Supreme Court Justice. In 2008, I endorsed Professor Suzanne Reynolds in her bid to become a North Carolina Supreme Court Justice. In September 2006, I hosted a fundraiser for former North Carolina Supreme Court Justice Patricia Timmons-Goodson, who was running to retain her seat on the court.

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

1979 – 1982  
The Coca-Cola Company  
One Coca-Cola Plaza  
Atlanta, Georgia 30303  
Staff Counsel

1984 – 1987  
21st Judicial District, Forsyth County  
200 North Main Street  
Winston-Salem, North Carolina 27101  
Assistant District Attorney

1994 – 2001  
U.S. Attorney's Office  
Middle District of North Carolina  
101 South Edgewood Street  
Greensboro, North Carolina 27401  
Assistant United States Attorney (1994 – 1997)  
Executive Assistant United States Attorney (1997 – 2001)

2003 – May 2014  
Davis Harwell & Biggs, P.A.  
380 Knollwood Street, Suite 720  
Winston-Salem, North Carolina 27103  
Managing Shareholder

May 2014 – present  
Allman Spry Davis Leggett & Crumpler, P.A.  
380 Knollwood Street, Suite 700  
Winston-Salem, North Carolina 27103  
Partner

- 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 in any dispute resolution proceeding.

b. Describe:

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

I began my law career in 1979 as in-house counsel for the General Counsel's office of The Coca-Cola Company headquartered in Atlanta, Georgia. As a new attorney, I was assigned to do research and write briefs and legal memoranda. During my tenure at the company, I was assigned to work with the Products Liability and Securities' Counsel on the merger of the company with Minute Maid Orange Juice, Inc., which required that I review contracts, research pertinent industry information, and review and draft filings to the Securities and Exchange Commission.

Following my move to North Carolina in 1984, I became an Assistant District Attorney in Forsyth County, North Carolina, from 1984 to 1987. For the first two years as an Assistant District Attorney, I litigated misdemeanor criminal offenses, traffic cases, and juvenile cases as the

representative for the State of North Carolina. I was in court daily and tried hundreds of cases. In my third year, I was assigned to the superior court rotation to handle all child sex related crimes, many of which were tried before a jury.

After serving as a state district court judge from 1987 to 1994, I became an Assistant United States Attorney and then an Executive Assistant United States Attorney for the Middle District of North Carolina from 1994 to 2001. I oversaw the planning and coordination of the office's violence reduction strategy in the 24-county area that makes up the Middle District of North Carolina. I developed the model for the Juvenile Crime Prevention Councils which has been institutionalized by the Governor in all 100 counties in North Carolina. I also handled certain criminal prosecutions that were directly related to the communities where we engaged in crime prevention and violence reduction strategies.

After serving on the North Carolina Court of Appeals from 2001 to 2003, I joined Davis Harwell & Biggs, P.A., and became the managing shareholder of the law firm. My practice includes primarily litigation of complex family law cases; however, we also engage in mediation and arbitration. My cases often involve commercial litigation, business valuations, and in-depth financial analysis in high asset equitable distribution, alimony, and child support cases. I also litigate interstate and international child custody cases. I either handle or assist with all appellate work done by my firm to include brief writing and oral argument before the North Carolina appellate courts. In 2014, Davis Harwell & Biggs, P.A., merged with Allman Spry Leggett & Crumpler, P.A., where I have continued my family law practice.

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

My sole client during the time I worked for Coca-Cola was the company. My client during my tenure as an Assistant District Attorney was the State of North Carolina. My client during my tenure with the United States Attorney's Office was the United States of America and its agencies. My clients during my tenure with Davis Harwell & Biggs, P.A. and now Allman Spry Davis Leggett & Crumpler, P.A., have generally been individuals.

- 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.

Overall, approximately 40% of my practice has been in litigation. While working at Coca-Cola, I served as in-house counsel and managed outside counsel

representing the company in various litigation matters involving the company. Although I did not personally try any cases while I worked for the company, I reviewed, evaluated, and edited pleadings and other documents to be filed on behalf of the Coca-Cola Company. As an Assistant District Attorney from 1984 to 1987, my practice involved daily litigation. From 1994 to 2001 as an Assistant United States Attorney and Executive Assistant United States Attorney, approximately 5% of my work involved litigation activities, including involvement in the investigative stage through indictment, pretrial, and plea bargain. I appeared in court, on occasion, to handle guilty pleas and conduct detention hearings principally related to select cases that were a part of the office's violence reduction strategies. From 2003 to the present, I have been actively engaged in civil litigation and appeals related to cases handled in my practice. I am in court regularly as a part of my practice.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 5%  |
| 2. state courts of record:  | 95% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 0%  |

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 50% |
| 2. criminal proceedings: | 50% |

- 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.

As an Assistant District Attorney, I tried more than 100 cases to verdict or judgment. As an Assistant United States Attorney I handled guilty pleas in select cases that resulted from the violence reduction strategies that I coordinated for the United States Attorney's Office. In my current practice, I have tried more than 50 cases to final judgment or decision.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 10% |
| 2. non-jury: | 90% |

- 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.

None.

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. Austin v. Austin, 13 CVD 2128, Forsyth County District Court, Winston-Salem, North Carolina.

This case involves the parties' respective claims for equitable distribution. The parties are 87 and 88 years of age. Over the years, the defendant, whom I represent, amassed an estate valued at more than \$15 million. The defendant preserved these assets for his family by creating revocable and irrevocable trusts, as well as a limited liability partnership that held substantial beach property. One of the first issues to be addressed was the parties' date of separation. The issue of the parties' date of separation involved a week-long trial with the plaintiff asserting that the date of separation occurred in 2008 and the defendant asserting that the date of separation occurred in 2013. The court agreed with the defendant that the parties' date of separation occurred in 2013. This determination may determine whether the marital estate is valued at approximately \$4 million, or a substantially greater valuation as contended by the plaintiff. The case involves substantial appraisals of property to include the trust and the parties' limited liability partnership. The case is ongoing.

Date of representation:	2013 – present
Court:	Forsyth County District Court
Judge:	The Honorable George A. Bedsworth
Co-Counsel:	Reginald F. Combs Reginald F. Combs, P.C. Post Office Box 24009 Winston-Salem, North Carolina 27114-4009 336-725-8165
Attorneys for plaintiff:	John F. Morrow Sr. and John C. Vermitsky

Morrow Porter Vermitsky Fowler & Taylor  
 Post Office Box 25226  
 Winston-Salem, North Carolina 27114-5226  
 336-760-1400

2. Wright v. Wright, 08 CVD 1835, Cabarrus County, North Carolina.

This case involved issues of equitable distribution, child custody, child support, post-separation support, and alimony. I represented the defendant-wife throughout the litigation. The husband was an NFL player with the New York Giants when the case began, and the case involved a total estate valued at \$1.5 million. The three-day equitable trial involved the valuation of retirement, pension, and disability benefits. The plaintiff-husband appealed the equitable distribution judgment and was successful on one of the issues involving the characterization of certain disability benefits as his separate property. On behalf of the defendant-wife I obtained a post-separation support and child support award totaling \$25,000 per month. Following the appeal of the equitable distribution judgment, the parties resolved all issues by consent order.

Date of representation: 2008 – 2014  
 Court: Cabarrus County District Court  
 Judge: The Honorable William G. Hamby, Jr.  
 Attorney for plaintiff: Matthew F. Ginn, Esquire  
 Ginn and Link  
 One Buffalo Avenue, Northwest, Suite 3305  
 Concord, North Carolina 28025  
 704-786-5008

3. Dickman v. Dickman, 09 CVD 645, Davie County District Court, 140 South Main Street, Mocksville, North Carolina 27028

The case involved a 27-year marriage and was litigated for more than three years. I represented the defendant-wife. The issues involved a contested divorce, and claims of post-separation support, alimony, and equitable distribution. The parties had a net marital estate valued in excess of \$1 million. Plaintiff initially moved for a summary judgment divorce based on one year of separation as required by North Carolina law, alleging that his move to another state for employment constituted a separation as contemplated by the North Carolina divorce statutes. The Honorable Jimmy Myers heard and denied the plaintiff's motion after several hours of argument by counsel. A second contested issue involved the parties' date of separation, which was tried over two days before the Honorable Carlton Terry. Following the court's determination of the parties' date of separation, a trial on

equitable distribution began. Midway through the trial the parties resolved each party's claim for equitable distribution by consent order.

Date of representation: 2009 – 2013

Court: Davie County District Court

Judge: The Honorable Jimmy Myers  
The Honorable Carlton Terry

Attorney for plaintiff: Theodore M. Molitoris  
Theodore M. Molitoris, Attorney at Law  
823 West Fifth Street  
Winston-Salem, North Carolina 27101  
336-725-0625

4. France v. France, 08 CVD 28389 and 08 CVD 20661, Mecklenburg County District Court, Charlotte, North Carolina.

This case involved a confidentiality provision in the parties' contract of separation, property settlement, child support, child custody and alimony agreement. The litigants were a NASCAR CEO and his former wife. I was co-counsel for the defendant-wife. In the trial court, the plaintiff sought to have the parties' custody and child support litigation heard in a courtroom closed to the public. The trial court denied the plaintiff's motion to seal the courtroom and the plaintiff appealed. In this first appeal, which is reported in France v. France, 209 N.C. App. 406, 705 S.E.2d 399 (2011), the issue was whether the parties' custody and child support case would be heard in an open or closed courtroom. The appeal raised significant constitutional issues related to the appropriate balance between public access to civil court proceedings and individuals' rights to contract. The appellate court affirmed the trial court's ruling that the case would be heard in an open courtroom and remanded to the trial court for the parties' issues to be litigated in an open courtroom. On remand, the district court conducted a hearing on The Charlotte Observer's request that all records and pleadings be unsealed. The trial court allowed the newspaper's motion, and the plaintiff once again appealed. In the second appeal, which is reported in France v. France, 738 S.E.2d 180 (2012), the North Carolina Court of Appeals once again affirmed the trial court and remanded the case back to the trial court for a hearing on the merits. The plaintiff then petitioned the North Carolina Supreme Court for discretionary review, which was denied. I wrote the briefs for both appeals and argued before the North Carolina Court of Appeals on both occasions. The parties have now resolved all custody and child support issues with a confidential settlement agreement.

Date of representation: 2008 – 2013



795

Court: Mecklenburg County District Court

Judge: The Honorable Jena P. Culler

Co-Counsel: Joslin Davis  
Allman Spry Davis Leggett & Crumpler, P.A.  
380 Knollwood Street, Suite 700  
Winston-Salem, North Carolina 27103  
336-722-1534

Martin L. Brackett Jr.  
Robinson, Bradshaw & Hinson, P.A.  
101 North Tryon Street, Suite 1900  
Charlotte, North Carolina 28246  
704-377-2536

Attorneys for Mr. France: Gena Graham Morris  
Horack Talley Pharr & Lowndes, P.A.  
301 South College Street, Suite 2600  
Charlotte, North Carolina 28202  
704-377-2500

John E. Stephenson Jr.  
Alston & Bird, LLP  
1201 West Peachtree Street  
Atlanta, Georgia 30309  
404-881-7697

Attorneys for Media Movants: Raymond E. Owens Jr.  
The Charlotte Observer Christopher C. Lam  
K & L Gates  
214 North Tryon Street, 47th Floor  
Charlotte, North Carolina 28202  
704-331-7400

5. Bramblett v. Bramblett, 09 CVD 8611, Forsyth County District Court, Winston-Salem, North Carolina.

This case involved issues of child custody and child support involving two severely disabled children. The children required constant care, numerous medications, treatments, equipment, and very expensive diets. I represented the plaintiff-mother in the state district court case and the appeal that followed. The trial court determined that the motion for custody by the defendant-father was frivolous because he had been out of the children's lives, did not know how to care for them, and had put little effort into providing proper documentation to the mother during discovery. The defendant-father refused to reimburse the plaintiff-

mother for the substantial costs she incurred in caring for the children. The court awarded \$30,000 in attorney's fees to the plaintiff-mother. On appeal, the North Carolina Court of Appeals affirmed the trial court's award of attorney's fees. The appeal is reported in Bramblett v. Bramblett, No. COA11-970, 2012 WL 381767 (N.C. App. Feb. 7, 2012).

Date of representation: 2010 – 2012

Court: Forsyth County District Court

Judge: The Honorable George A. Bedsworth

Attorney for defendant/appellant: W. Eugene Metcalf  
Metcalf & Beal, L.L.P.  
380 Knollwood Street, Suite 450  
Winston-Salem, North Carolina 27103  
336-777-0067

6. Manca v. Pujol, 05 CVD 9838, Guilford County District Court, Greensboro, North Carolina.

This case implicated the Hague Convention and involved the registration and enforcement of an Italian custody order awarding exclusive custody of the minor child to my client, the defendant-father. We first sought registration of the Italian order. On September 23, 2008, the district court, following a contested hearing, entered an order registering and confirming the Italian custody order. Immediately following the entry of the order, I filed a petition for expedited enforcement of the child custody determination and requesting immediate physical custody of the minor child. On September 25, 2008, a second contested hearing was held on the defendant-father's motion for expedited enforcement. The court granted this motion and ordered that the defendant-father take immediate physical custody of the minor child. The order registering the custody order was appealed, which was later dismissed by the plaintiff-mother.

Date of representation: 2008 – 2010

Court: Guilford County District Court

Judge: The Honorable William Turner and The Honorable Wendy M. Enochs

Attorney for plaintiff: Arlene M. Reardon  
Wyatt Early Harris Wheeler, LLP  
Post Office Drawer 2086  
High Point, North Carolina 27261  
336-884-4444

7. K. Williams and C. Williams, Petitioners for the Adoption of A. Williams) v. Carlson, Intervener, 06 SP 1888 (2006), Forsyth County District Court, Winston-Salem, North Carolina.

This case involved a challenge to an adoption. I represented the biological father of the minor child, and the intervener in the adoption. My client moved to dismiss the adoption, asserting that the form purporting to relinquish his rights to his child was procedurally defective and therefore void, or, in the alternative, that he had properly and timely executed a revocation of the relinquishment. Based on my client's challenge to the adoption, the matter was moved from the superior court to the district court. Numerous depositions were taken, and, after a two-day trial, the court entered an order dismissing and setting aside the petition for adoption. In a separate action, I filed a complaint for exclusive custody of the minor child on behalf of the intervener-father, which the district court granted.

Date of representation: 2008 – 2010

Court: Forsyth County District Court; Forsyth County Superior Court

Judge: The Honorable Denise S. Hartsfield and the Honorable Todd Owens

Attorney for petitioners: Gary R. Tash  
Tash & Kurtz, PLLC  
3305 Healy Drive  
Winston-Salem, North Carolina 27103  
336-768-1515

Attorney for family services: Brinton Wright  
324 West Wendover Avenue, Suite 170  
Greensboro, North Carolina 27408  
336-373-1500

Attorney for birth mother: Elise Morgan Whitley  
Tash & Kurtz, PLLC  
3305 Healy Drive  
Winston-Salem, North Carolina 27103  
336-768-1515

8. Steffen v. Steffen, 04 CVD 900, Forsyth County District Court, Winston-Salem, North Carolina.

The case began as a child custody, child support, and equitable distribution case with claims that the defendant-mother intended to remove the minor child from

the jurisdiction of the court to England. I represented the plaintiff-father and immediately sought an order prohibiting the removal of the child from the United States. The parties initially resolved their outstanding claims by consent order. Several years later, the defendant-mother developed a brain tumor and her parents, who lived in England, sought to intervene in the original custody action, requesting that the court give them custody of the minor child. The trial court allowed the grandparents to intervene but denied them custody of the minor child. The court did, however, allow the child to travel to England for visits, which required that a mirror order through the Hague Convention be obtained in England to ensure that the Forsyth County trial court's order would be recognized while the child was in England. My client and I consulted with counsel in England, who obtained a mirror order on my client's behalf.

Date of Representation: 2004 – 2009

Court: Forsyth County District Court

Judge: The Honorable George A. Bedsworth

Attorney for defendant: Robin Stinson and Monica Guy  
Bell, Davis & Pitt, P.A.  
Post Office Box 21029  
Winston-Salem, North Carolina 27120  
336-722-3700

Attorney for interveners: Gary R. Tash  
Tash & Kurtz, PLLC  
3305 Healy Drive  
Winston-Salem, North Carolina 27103  
336-768-1515

9. Reid v. Reid, 07 CVD 6721, Forsyth County District Court, Winston-Salem, North Carolina.

This case arose from the defendant-father's motion in the cause for reduction of child support involving four minor children. I represented the plaintiff-mother. The original order was entered in another state years before this litigation when the defendant-father earned approximately \$40,000 per month. The determination of his income in this litigation was complicated by the fact that the father owned closely held businesses in which there was significant manipulation of his ownership interest during the course of litigation. After a six-day trial, the judge granted a reduction in child support.

Date of representation: 2007

Court: Forsyth County District Court

Judge: The Honorable George A. Bedsworth

Attorney for defendant: Gary B. Tash  
Tash & Kurtz, PLLC  
3305 Healy Drive  
Winston-Salem, North Carolina 27103  
336-768-1515

10. United States v. Lassiter, No. 94-5626, 1995 WL 86423 (4th Cir. March 3, 1995).

The defendant appealed the sentence the district court imposed after revoking his probation. His attorney filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), raising one sentencing issue, but asserting that there were no meritorious issues for appeal. On appeal, I, along with co-counsel, submitted a brief on behalf of the United States arguing that the district court's determination of an individual's sentence within the properly calculated guideline range is not subject to appellate review, and because the defendant did not challenge the calculation of the guideline range, his challenge did not state an appealable question. The Fourth Circuit agreed that there were no meritorious issues for appeal and affirmed defendant's sentence. This prosecution was a part of a greater violence reduction strategy by the U.S. Attorney's Office for the Middle District of North Carolina. My role was to assist in identifying relevant prosecutions, assist in the investigation of the defendant, assist with the indictment as well as the trial or guilty plea of the defendant, and further to assist with preparation of the brief on appeal.

Date of representation: 1994 – 1995

Court: United States District Court for the Middle District of North Carolina

Judge: The Honorable Norwood Carlton Tilley, Jr.

Co-Counsel: Walter C. Holton Jr.  
(Formerly of the United States Attorney's Office for the Middle District of North Carolina)  
Holton Law Firm  
301 North Main Street  
Winston-Salem, North Carolina 27101  
336-777-3480

Attorneys for appellant: William E. Martin  
William S. Trivette  
The Office of the Federal Public Defender

301 North Elm Street, Suite 410  
Greensboro, North Carolina 27401  
336-333-5455

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 an Executive Assistant United States Attorney, I oversaw the planning and coordination of all violence reduction strategies for the Middle District of North Carolina which included a 24-county area. In 1995, I, along with others, initiated crime and violence reduction strategies in a number of crime ridden and drug infested neighborhoods. The strategy included bringing all the stakeholders to the table to develop comprehensive violence reduction strategies. The stakeholders included federal law enforcement, local law enforcement, city leaders, school officials, community organizations, and clergy that assisted with planning. In various communities, agreements were reached with property management and the Department of Housing and Urban Development to correct deficient living circumstances. In addition, the major criminal actors in the communities were identified using crime data and were prosecuted and removed from the communities. I also participated in several of those prosecutions.

During my tenure at the Coca-Cola Company, the completion of the merger between the company and Minute Maid Orange Juice required substantial research, drafting briefs and legal memoranda, drafting contracts, and preparing Securities and Exchange Commission filings.

I have never performed 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.

From 1984 to 1987, I served as an Adjunct Professor for the Wake Forest Clinic Litigation Program tutoring students in litigation skills and practices. No syllabus available.

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.

If confirmed, I have no plans to pursue outside employment.

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.

I am not aware of any family members or other persons, parties, categories of litigation, or financial arrangements that are likely to present potential conflicts-of-interest. If a conflict did present itself I would immediately request that the case presenting the conflict be reassigned. If it is unclear whether a conflict actually exists, I will consult the Code of Conduct for United States Judges and all relevant statutes, canons, and rules to determine whether recusal is the appropriate course of action.

- 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 would refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges and the Advisory Opinions of the Committee on Codes of Conduct, and all other applicable rules.

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.

Over the years, I have provided legal advice at reduced rates for those who could not afford my fees. For example, in the case of *Bramblett v. Bramblett*, 09 CVD 8611, Forsyth County, North Carolina, I devoted over 300 hours to representing a mother of two in a custody and child support case in litigation that lasted nearly two years. The case also involved an appeal. Though the court awarded attorney's fees, it was less than one-third of the actual time and resources spent on the case.

I also regularly participate in community outreach programs, including speaking at churches, civic and community organizations, and schools regarding selective legal topics. Each year, I participate in the Ask A Lawyer program with the Winston-Salem Bar Association, in which we visit churches in the area and give free legal advice.

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 February 26, 2014, I submitted a letter of interest to Senator Kay Hagan and Senator Richard Burr. On March 19, 2014, I interviewed with Senator Hagan's chief of staff in Winston-Salem, North Carolina, and, on April 15, 2014, I interviewed with a staffer from Senator Burr's office in Winston-Salem, North Carolina. On June 27, 2014, I received a call from Senator Hagan's chief of staff informing me that the Senators intended to recommend me to the President. On June 30, 2014, I received a call from a staffer in Senator Burr's Office informing me of this as well. Since July 1, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On August 12, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On September 18, 2014, 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.

AO 10  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Biggs, Loretta C.	2. Court or Organization US District Court Middle District of North Carolina	3. Date of Report 09/24/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Nominee, US District Judge	5. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination Date 09/18/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input checked="" type="checkbox"/> Amended Report	6. Reporting Period 01/01/2013 to 09/18/2014
7. Chambers or Office Address 380 Knollwood Street, Suite 700, Winston-Salem, North Carolina 27103		
<b>IMPORTANT NOTES:</b> The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.		

**I. POSITIONS.** (Reporting individual only; see pp. 9-13 of filing instructions.)

NONE (No reportable positions.)

	<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Partner		Allman Spry Davis Leggett & Crumpler, P.A.
2. Partner		Davis Harwell & Biggs, P.A.
3. Board Member		United Way of Forsyth County
4.		
5.		

**II. AGREEMENTS.** (Reporting individual only; see pp. 14-16 of filing instructions.)

NONE (No reportable agreements.)

	<u>DATE</u>	<u>PARTIES AND TERMS</u>
1.	2004	State of North Carolina Judicial Retirement defined benefit - no control
2.		
3.		

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Biggs, Loretta C.	<b>Date of Report</b> 09/24/2014
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**III. NON-INVESTMENT INCOME** (Reporting individual and spouse; see pp. 17-24 of filing instructions.)

**A. Filer's Non-Investment Income**

NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2014	Allman Spry Davis Leggett & Crumpler, P.A. - salary	\$69,355.00
2. 2014	Davis Harwell & Biggs, P.A. - salary	\$44,000.00
3. 2014	State of North Carolina Retirement - pension	\$24,225.00
4. 2013	Davis Harwell & Biggs, P.A. - salary	\$215,810.00
5. 2013	State of North Carolina Retirement - pension	\$28,301.00
6. 2012	Davis Harwell & Biggs, P.A. - salary	\$234,797.00
7. 2012	State of North Carolina Retirement - pension	\$28,161.00

**B. Spouse's Non-Investment Income** - If you were married during any portion of the reporting year, complete this section.  
(Dollar amount not required except for honoraria.)

NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1.	
2.	
3.	
4.	

**IV. REIMBURSEMENTS** -- transportation, lodging, food, entertainment.  
(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

NONE (No reportable reimbursements.)

	<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1.	Exempt				
2.					
3.					
4.					

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
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Name of Person Reporting Biggs, Loretta C.	Date of Report 09/24/2014
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**V. GIFTS.** (Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)

NONE (No reportable gifts.)

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** (Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)

NONE (No reportable liabilities.)

	CREDITOR	DESCRIPTION	VALUE CODE
1.	First Tennessee Bank	Business Loan	K
2.	Department of Education	Loan	K
3.			
4.			
5.			

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Biggs, Loretta C.	<b>Date of Report</b> 09/24/2014
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**VII. INVESTMENTS and TRUSTS** -- Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemptions)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
1. IRA #1	A	Int./Div.	L	T	Exempt				
2. - First Tennessee Bank Deposit Sweep Program									
3. - Global X FDS Global X MSCI Argentina ETF									
4. - Ishares Trust MSCI Denmark Capped INV MKT									
5. - Ishares Trust MSCI Finland Capped Investable MKT									
6. - Ishares MSCI Ireland Capped ETF									
7. - Ishares MSCI Israel Capped ETF									
8. - Ishares MSCI Italy Capped ETF									
9. - Ishares MSCI Spain Capped ETF									
10. - First TR S&P Reit Index FD									
11. - First Trust Portfolios Large Cap Growth OPPS Alpha Fund ISIN									
12. - First TR Exchange-Traded FD VII First Global Tactical Commodity									
13. - First TR Exchange-Traded Alphadex FD II Taiwan Alphadex FD									
14. - First TR Exchange Traded FD II Health Care Alphadex FD Annual									
15. - First TR Exchange Traded FD II Energy Alphadex FD Annual									
16. - First TR Exchange Traded FD II Indis Prod Durabl Alphadex FD Annl									
17. - Ishares 7-10 Year Treasury Bond ETF									

1. Income Gain Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000  
 (See Columns B1 and D4) F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H1=\$1,000,001 - \$5,000,000; H2=More than \$5,000,000  
 2. Value Codes: J=\$15,000 or less; K=\$15,001 - \$50,000; L=\$50,001 - \$100,000; M=\$100,001 - \$250,000  
 (See Columns C1 and D3) N=\$250,001 - \$500,000; O=\$500,001 - \$1,000,000; P1=\$1,000,001 - \$5,000,000; P2=\$5,000,001 - \$25,000,000  
 3. Value Method Codes: Q=Appraisal; R=Cost (Retl Easmt Only); S=Assessment; T=Cash Market  
 (See Column C2) U=Book Value; V=Other; W=Estimated

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<b>Name of Person Reporting</b> Biggs, Loretta C.	<b>Date of Report</b> 09/24/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "00" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
18. - Ishares Trust MSCI India Index FD									
19. - Ishares 20+ Year Treasury Bond ETF									
20. 401 K #1	B	Int./Div.	N	T					
21. - PIMCO Total Return Fund Inst									
22. - Oppenheimer International Bond Fnd									
23. - Vanguard Trgt Retire 2015 Fnd Inv									
24. - Vanguard Balanced Index Fund Sign									
25. - American Funds Washington Mutual R6									
26. - American Funds Fdntnl Inv R6									
27. - American Funds Growth Fnd R6									
28. - Vanguard Small-Cap Index Fund Sign									
29. - DFA Global Real Estate Sec Port Inst									
30. - Munder Mid-Cap Core Growth Fund R6									
31. - American Funds EuroPacific R6									
32. - American Funds Nw Prspctv R6									
33. Brokerage Account #1	A	Dividend	M	T					
34. - First Tennessee Treasury Fund Daily Money Class	A	None	J	W					

1. Income Gain Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000  
 (See Columns B1 and D4) F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H1=\$1,000,001 - \$5,000,000; H2=More than \$5,000,000  
 2. Value Codes: J=\$15,000 or less; K=\$15,001 - \$50,000; L=\$50,001 - \$100,000; M=\$100,001 - \$250,000  
 (See Columns C1 and D3) N=\$250,001 - \$500,000; O=\$500,001 - \$1,000,000; P1=\$1,000,001 - \$5,000,000; P2=\$5,000,001 - \$25,000,000  
 3. Value Method Codes: P3=More than \$50,000,000; Q=Appraisal; R=Cost (Real Estate Only); S=Assessment; T=Cash Market  
 (See Column C2) U=Book Value; V=Other; W=Estimated

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<b>Name of Person Reporting</b> Biggs, Loretta C.	<b>Date of Report</b> 09/24/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 14-66 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

Description of Assets (including trust assets)  Place "00" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code I (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
35. - Spartan Intl Index FID Adv Class	A	Dividend	J	W					
36. - Spartan Small Cap Index Investor CI	A	Dividend	J	W					
37. - Spartan 500 Index FD Advantage Class	A	Dividend	K	W					
38. - PMC Diversified Equity Fund	A	Dividend	K	W					
39. - Deutsche Managed Muni Bond FD S	A	Dividend	J	W					
40. - Deutsche Intermediat Tax/AMT Free FD S	A	Dividend	J	W					
41. - Wells Fargo Short Term Muni BD-Invest	A	Dividend	J	W					
42. - American Cen Inter Term Tax-Free BD Inv	A	Dividend	J	W					
43. Prudential Variable Appreciable Life	B	Dividend	K	T					
44. Wells Fargo Bank "Account" A	A	Interest	J	T					
45. State Employees Credit Union "Account" A	A	Interest	J	T					
46. First Tennessee Bank "Account" A	A	Interest	J	T					

1. Income Gain Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000; F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H1=\$1,000,001 - \$5,000,000; H2=More than \$5,000,000; J=\$15,000 or less; K=\$15,001 - \$50,000; L=\$50,001 - \$100,000; M=\$100,001 - \$250,000; N=\$250,001 - \$500,000; O=\$500,001 - \$1,000,000; P1=\$1,000,001 - \$5,000,000; P2=\$5,000,001 - \$25,000,000; P3=\$25,000,001 - \$50,000,000; P4=More than \$50,000,000

2. Value Codes (See Columns C1 and D3): N=\$250,001 - \$500,000; Q=\$500,001 - \$1,000,000; R=Cost (Real Estate Only); S=Assessment; U=Block Value; V=Other; W=Estimated

3. Value Method Codes (See Column C2): R=Cost (Real Estate Only); S=Assessment; T=Cash Market; W=Estimated



**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
Biggs, Loretta C.	09/24/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

**FINANCIAL DISCLOSURE REPORT**

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Name of Person Reporting	Date of Report
Biggs, Loretta C.	09/24/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/ Loretta C. Biggs*

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

## FINANCIAL STATEMENT

## NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		10	600	Notes payable to banks-secured (autos)		31	900
U.S. Government securities				Notes payable to banks-unsecured		111	144
Listed securities - see schedule		508	017	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable - personal residence		310	965
Real estate owned - see schedule		460	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		280	000	Education loans		49	600
Cash value-life insurance		22	486				
Other assets itemize:							
				Total liabilities		503	609
				Net Worth		777	494
Total Assets	1	281	103	Total liabilities and net worth	1	281	103
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)		No	
On leases or contracts				Are you defendant in any suits or legal actions?		No	
Legal Claims				Have you ever taken bankruptcy?		No	
Provision for Federal Income Tax							
Other special debt							

## FINANCIAL STATEMENT

## NET WORTH SCHEDULES

<u>Listed Securities</u>	
American Century Intermediate-Term Tax-Free Bond Fund	\$ 8,063
American Funds EuroPacific Growth Fund	3,187
American Funds Fundamental Investors Fund	3,458
American Funds Growth Fund of America	26,670
American Funds New Perspectives Fund	1,378
American Funds Washington Mutual Investors Fund	49,741
DFA Global Real Estate Securities Portfolio	2,032
Deutsche Tax/AMT Free Fund	9,506
Deutsche Managed Municipal Bond Fund	5,854
First Tennessee Bank Deposit Sweep Program	11,332
First Tennessee Treasury Fund Daily Money Class	2,749
First Trust Energy Alpha DEX Fund	8,022
First Trust Global Tactical Commodity Strategy Fund	8,351
First Trust Health Care Alpha DEX Fund	9,858
First Trust Industrials/Producer Durables Alpha DEX Fund	9,226
First Trust Large Cap Growth Alpha Fund ISIN	8,311
First Trust S&P REIT Index Fund	8,516
First Trust Exchange Traded Alpha DEX Taiwan	2,194
Global X FDS Argentina 20 ETF	2,074
iShares 20+ Year Treasury Bond ETF	4,636
iShares 7-10 Year Treasury Bond ETF	4,218
iShares MSCI Denmark Capped ETF	1,860
iShares MSCI Finland Capped ETF	1,766
iShares MSCI India ETF	2,452
iShares MSCI Ireland Capped ETF	2,285
iShares MSCI Israel Capped ETF	2,235
iShares MSCI Italy Capped ETF	1,738
iShares MSCI Spain Capped ETF	1,808
Munder Mid Cap Core Growth Fund	38,002
Oppenheimer International Bond Fund	8,343
PIMCO Total Return Fund	3,848
PMC Diversified Equity Fund	31,417
Spartan 500 Index Fund	36,436
Spartan International Index Fund	11,809
Spartan Small Cap Index Fund	5,197
Vanguard Balanced Index Fund	55,069
Vanguard Small Cap Index Fund	1,161
Vanguard Target Retirement 2015 Fund	107,529
Wells Fargo Short-Term Municipal Bond Fund	5,686
Total Listed Securities	<u>\$ 508,017</u>

<u>Real Estate Owned</u>	
Personal residence	\$ 400,000
Vacation home	<u>60,000</u>
Total Real Estate Owned	\$ 460,000

NB: Most of the amount of the unsecured notes disclosed previously is related to the real estate that I own. Specifically, I have approximately \$95,000 in unsecured loans that were used to add an addition to my primary residence and to purchase my vacation home.

AFFIDAVIT

I, Loretta Copeland Biggs , do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

September 19, 2014  
(DATE)

Loretta Copeland Biggs  
(NAME)

AMY K. CLORE  
NOTARY PUBLIC  
FORSYTH COUNTY, NC  
Commission Expires June 01, 2015

Amy K. Clore  
(NOTARY)

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Elizabeth Kay Dillon  
(Elizabeth Kay Hillman)  
(Elizabeth Kay Hillman Dillon)  
(Elizabeth Hillman Dillon)

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

United States District Judge for the Western District of Virginia

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: Guynn & Dillon, P.C.  
415 South College Avenue  
Salem, Virginia 24153

Residence: Roanoke, Virginia

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

1960; Omaha, Nebraska

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.

1983 – 1986, Wake Forest University School of Law; J.D., 1986  
1979 – 1983, Lenoir Rhyne College; A.B. (*magna cum laude*), 1983

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.

2004 – present  
Guynn & Dillon, P.C.  
(Previously Guynn, Memmer & Dillon, P.C.)  
415 South College Avenue  
Salem, Virginia 24153  
President/Director/Shareholder/Attorney

2000 – 2003  
Office of the City Attorney, City of Roanoke  
215 Church Avenue, Southwest  
Noel C. Taylor Municipal Building  
Room 464  
Roanoke, Virginia 24011  
Assistant City Attorney

1999 – 2000  
Guynn & Dillon, P.C.  
1215 Corporate Circle  
Roanoke, Virginia 24018  
Vice-President/Director/Shareholder/Attorney

1986 – 1998  
Woods, Rogers & Hazlegrove, P.L.C.  
(Now: Woods Rogers P.L.C.)  
10 South Jefferson Street, Suite 1400  
Roanoke, Virginia 24011  
Senior Attorney (1993 – 1998)  
Associate (1986 – 1992)

August 1985 – December 1985  
Wake Forest University School of Law  
1834 Wake Forest Road  
Winston Salem, North Carolina 27109  
Student Assistant to Professor Gerald Hartman

Summer 1985  
Patrick, Harper & Dixon  
34 2nd Street Northwest, #400  
Hickory, North Carolina 28601  
Summer Legal Intern

February – August 1985; May – August 1984  
Block, Meyland & Lloyd (appears to have dissolved)  
Greensboro, North Carolina  
Part time legal intern on one project / Summer Legal Intern



Other affiliations (uncompensated unless otherwise indicated):

2005 – present  
 Blueacre, L.L.C.  
 (Company owns land and law office building)  
 415 South College Avenue  
 Salem, Virginia 24153  
 Managing Member (33% interest)

2010 – August 2014  
 Local Government Attorneys of Virginia, Inc.  
 11 South 12 Street, Suite 225  
 Richmond, Virginia 23219  
 Director

Approximately 2002 – 2006  
 Roanoke Bar Association  
 5661 Hollins Road  
 Roanoke, Virginia 24011  
 Director (approximately 2002 – 2006)  
 Past-President (2005 – 2006)  
 President (2004 – 2005)

Approximately 1998 – 2004, 1992 – 1994  
 Virginia Women Attorneys Association  
 Post Office Box 3806  
 Merrifield, Virginia 22116  
 Director (approximately 1998 – 2004)  
 Immediate Past President (2003 – 2004)  
 President (2002 – 2003)  
 President-Elect (2001 – 2002)  
 Secretary (2000 – 2001)  
 President, Roanoke / New River Valley Chapter (1993 – 1994)  
 Vice-President, Roanoke / New River Valley Chapter (1992 – 1993)

1999 – 2000  
 Virginia State Bar  
 1111 East Main Street, Suite 700  
 Richmond, Virginia 23219  
 Council Member

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 U.S. military. I was not required to register for the selective service.

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.

Fellow, Virginia Law Foundation (2012 – present)  
 Named a Virginia Leader in Law by Virginia Lawyers Weekly (2011)  
 Roanoke City School Board Resolution – Recognizing and Commending the Outstanding Professional Services Rendered by Elizabeth K. Dillon (2003)  
 Office of the Mayor, City of Roanoke Proclamation – Recognition for Faithful and Outstanding Service Proclaiming December 8, 2003 as Elizabeth Kay Dillon Day (2003)  
 Wake Forest Law Review, Notes and Comments Editor (1985 – 1986)  
 Wake Forest Law Review, Member (1984 – 1986)  
 Wake Forest University School of Law, Law Faculty Scholar (1983 – 1986)

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.

Local Government Attorneys of Virginia, Inc. (2005 – present)  
 Chair, Information Technology Committee ((2013 – August 2014)  
 Board of Directors (2010 – August 2014)

Roanoke Bar Association (1986 – present)  
 Director (approximately 2002 – 2006)  
 Past-President (2005 – 2006)  
 President (2004 – 2005)

Ted Dalton American Inn of Court (2008 – present)  
 Program Committee Co-Chair (2011 – 2013)

U.S. Magistrate Judge Selection Advisory Committee (June 2011)

Virginia Bar Association (1986 – 2001)

Virginia Law Foundation (2012 – present)  
 Fellow

Virginia State Bar (1986 – present)  
 Clients' Protection Fund Board (2011 – present)  
 Local Government Law Section Board (2005 – 2011)  
 Immediate Past Chair (2010 – 2011)  
 Chair (2009 – 2010)  
 Chair Elect (2008 – 2009)

- Secretary (2007 – 2008)
- General Practice Section Board (2006 – 2011)
  - Immediate Past Chair (2010 – 2011)
  - Chair (2009 – 2010)
  - Chair Elect (2008 – 2009)
  - Secretary (2007 – 2008)
- Conference of Local Bar Associations Executive Committee (1995 – 2001)
  - Immediate Past Chair (2000 – 2001)
  - Chair (1999 – 2000)
  - Chair Elect (1998 – 1999)
  - Secretary/Treasurer (1997 – 1998)
- Professionalism Course (2004 – 2007)
  - Faculty Member appointed by Supreme Court of Virginia Chief Justice
- Council Member (1999 – 2000)
- Virginia Women Attorneys Association (1989 – present)
  - Judicial Selection Committee Co-Chair (approximately 1998 – 1999, 2002, 2006 – 2007)
  - Director (approximately 1998 – 2004)
  - Immediate Past President (2003 – 2004)
  - President (2002 – 2003)
  - President-Elect (2001 – 2002)
  - Secretary (2000 – 2001)
  - Roanoke / New River Valley Chapter Conference Representative (approximately 1995 – 2002)
  - Roanoke / New River Valley Chapter President (1993 – 1994)
  - Roanoke / New River Valley Chapter Vice-President (1992 – 1993)

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.

Virginia State Bar, 1986

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.

Virginia State Courts (1986)

United States District Court for the Western District of Virginia (1987)

United States District Court for the Eastern District of Virginia (1987)  
United States Court of Appeals for the Fourth Circuit (1989)  
Supreme Court of the United States (2007)

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.

Read and Feed Book Club (1990 – present)  
Roanoke Jaycees (late 1980s)  
Virginia Association of Chiefs of Police (2005 – present)  
Legal Advisors Committee (approximately 2006 – 2008)

- 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.

Before I became a member, the national Jaycees restricted membership to male members. To the best of my knowledge, none of the other organizations listed above 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.

Co-author, *Local Government Attorneys Handbook*, Sovereign Immunity Chapter (2013, 2014 editions). Copy supplied.

*Chairman's Message*, Journal of Local Government Law, Vol. XX, No. 2, Winter 2010. Copy supplied.

*The Emergency Aid and Community Caretaker Doctrines in Virginia: Warrantless Entries into Homes*, Journal of Local Government Law, Vol. XXI, No. 2, Fall 2010. Copy supplied.

*Chairman's Message*, Journal of Local Government Law, Vol. XX, No. 1, Summer 2009. Copy supplied.

*Employment Law: A New Americans with Disabilities Act? The ADA, ADARA, and ADAAA*, Virginia Police Legal Bulletin, Vol. 3, No. 2, December 2008. Copy supplied.

*A New ADA is Dawning – The ADA Amendments Act of 2008 ('ADAAA')*, Journal of Local Government Law, Vol. XIX, No. 1, Fall 2008. Copy supplied.

*Legal Summaries: Employment Law Update – Leave for Crime Victims; Be on the Lookout for Upcoming U.S. Supreme Court Employment Cases – Age and Race Discrimination*, Virginia Police Legal Bulletin, Vol. 3, No. 1, February 2008. Copy supplied.

*Legal Summaries: Employment Law Update – Time Limits Explained for Gender Discrimination in Pay; Releases for FMLA Claims May Not be Valid*, Virginia Police Legal Bulletin, Vol. 2, No. 2, September 2007. Copy supplied.

*Legal Summaries: Employment Law Update – Qualified Immunity – Gender Discrimination; FLSA Update*, Virginia Police Legal Bulletin, Vol. 2, No. 1, April 2007. Copy supplied.

*Legal Summaries: Employment Law – Title VII Retaliation; Title VII Discrimination; FMLA Job Restoration*, Virginia Police Legal Bulletin, Vol. 1, No. 2, December 2006. Copy supplied.

*President's Column*, Roanoke Bar Review, Spring – Summer 2005. Copy supplied.

*President's Column*, Roanoke Bar Review, Winter 2004 – 2005. Copy supplied.

*President's Column*, Roanoke Bar Review, Summer 2004. Copy supplied.

*2001 Bar Leaders Institute*, Local Bar Connection, Spring 2001. Copy supplied.

*Letter from the Chair*, Local Bar Connection, Vol. 11, No. 2, Spring 2000. Copy supplied.

*Letter from the Chair*, Local Bar Connection, Vol. 11, No. 1, Summer 1999. Copy supplied.

*Use of the Family Purpose Doctrine When No Outsiders Are Involved – Carver v. Carver*, Wake Forest Law Review, Vol. 21, No. 1, Spring 1985. Copy supplied.

- 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.

In 2013, I served on a task force convened by the Virginia Commission on Local Government staff, which issued a report. While I did not author the report, meetings in which I participated led to the report approved by the task force. Copy supplied.

From 2006 to 2007, as a member and Secretary of the Board of Governors for the Virginia State Bar General Practice Section, I attended quarterly meetings and compiled the minutes in my capacity as secretary. Minutes supplied where available.

*Conference of Local Bar Associations, 62nd Annual Report, Virginia State Bar, 1999 – 2000.* Copy supplied.

- 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.

2008 – present: My firm has been retained by Botetourt County, Virginia to serve the function of its County Attorney. As the attorney with primary responsibility for this client, I have participated in nearly all of the monthly meetings of the Board of Supervisors of Botetourt County, as well as periodic meetings of the Botetourt Planning Commission and Botetourt Board of Zoning Appeals. I have offered legal opinions during meetings. Meeting minutes supplied.

2007 – present: My firm has been retained by the Town of Christiansburg, Virginia to serve the function of its Town Attorney. Although I do not have primary responsibility for this client, I have occasionally attended meetings of the Christiansburg Town Council in that capacity. I have offered legal opinions during meetings. Meeting minutes and press coverage supplied where available.

2004 – present: My firm has been retained by the City of Covington, Virginia to serve the function of its City Attorney. As the attorney with primary responsibility for this client, I have participated in monthly meetings of the Covington City Council. I have offered legal opinions during meetings. Meeting minutes supplied.

2004 – present: My firm has been retained by the Town of Vinton, Virginia to serve the function of its Town Attorney. As the attorney with primary responsibility for this client, I have participated in monthly meetings of the Vinton Town Council. Meeting minutes supplied.

2002 – present: On occasion, I have provided educational presentations for local governmental entities and members of the public at open meetings. Those presentations are:

July 22, 2014: Presentation at public meeting of the Botetourt County Board of Supervisors regarding zoning issues. Relevant PowerPoint excerpt supplied.

October 23, 2012: Presentation at public meeting of the Botetourt County Board of Supervisors regarding parliamentary procedure. PowerPoint supplied.

August 28, 2012: Presentation at public meeting of the Botetourt County Board of Supervisors regarding the State and Local Government Conflict of Interests Act. PowerPoint supplied.

July 24, 2012: Presentation at public meeting of the Botetourt County Board of Supervisors regarding the Virginia Freedom of Information Act. PowerPoint supplied.

June 3, 2008: Presentation at a public meeting of the Christiansburg Town Council regarding the Freedom of Information Act. PowerPoint supplied.

June 12, 2007: Presentation at a public meeting for the Covington City Council regarding the Virginia Freedom of Information Act. PowerPoint supplied.

February 12, 2007: Presentation at a public meeting for the Covington City Council regarding planning and zoning. PowerPoint supplied.

October 13, 2003: Presentation at a public meeting of the Roanoke City School Board regarding student discipline and incident reporting. PowerPoint supplied.

September 6, 2003: Presentation at a public meeting of the Roanoke City School Board regarding the appropriate use of email. I have no notes, transcript, or recording.

July 23, 2003: Presentation at a public meeting of the Roanoke City School Board regarding student discipline, the school administration's role in student discipline, and the law. PowerPoint supplied.

May 31, 2003: Presentation at a public meeting of the Roanoke City School Board regarding the Virginia Freedom of Information Act. I have no notes, transcript, or recording.

November 20, 2002: Presentation at a public meeting of the Roanoke City School Board regarding personnel disciplinary procedures. I have no notes, transcript, or recording.

January 2, 2014: As contracted legal counsel for certain personnel matters for Rockbridge County, I attended a meeting of the Rockbridge Board of Supervisors during which revisions to the County's personnel policy manual were discussed. I offered legal opinions during that meeting. Meeting minutes available at <http://www.co.rockbridge.va.us/ArchiveCenter/ViewFile/Item/287>.

2001 – 2003: As Assistant City Attorney for the City of Roanoke, I participated in meetings of the Roanoke City School Board. I offered legal opinions during meetings. Meeting minutes supplied.

2001 – 2003: As Assistant City Attorney for the City of Roanoke, I occasionally attended Roanoke City Council meetings. I offered legal opinions during meetings. Meeting minutes 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.

A review of my calendar, materials, and the Internet shows that I have spoken at the following events. I may not have a record of every presentation I have made, and I may have varied the presentation from the text of the attached materials.

May, 16, 2014: Speaker, "Civil Liability of Law Enforcement Officers – Please Don't Sue Me," Crisis Intervention Team Training – Mental Health America of Roanoke Valley Roanoke, Virginia. PowerPoint supplied.

March 24, 2014: Speaker, "Section 1983 – A Brief Overview," The Ted Dalton Inn of Court, Roanoke, Virginia. Outline supplied.

March 5, 2014: Co-presenter, "Rule 1A:1 Reciprocity Course, Torts" Virginia Continuing Legal Education Online Course. Outline prepared by others on which I relied supplied.

December 12, 2013: Co-Presenter, "Trying Cases in the Western District of Virginia, Subject Matter and Personal Jurisdiction, Removal, and Other Pre-Filing Considerations," Federal Court Seminar, Staunton, Virginia. Modification of an outline originally prepared by others supplied.

December 11, 2013: Co-Presenter, "Trying Cases in the Western District of Virginia, Subject Matter and Personal Jurisdiction, Removal, and Other Pre-Filing



Considerations,” Federal Court Seminar, Roanoke, Virginia. Outline previously supplied for December 12, 2013 presentation.

December 2, 2013: Guest Speaker, “Section 1983 Cases from the Defense Perspective,” Local Government Practicum at Washington and Lee University School of Law, Lexington, Virginia. Outline supplied.

November 1, 2013: Speaker, “Civil Liability of Law Enforcement Officers – Please Don’t Sue Me,” Crisis Intervention Team Training – Mental Health America of Roanoke Valley, Roanoke, Virginia. PowerPoint supplied.

October 26, 2013: Speaker, “Hot Topics in Employment, Liberty Interests and Employment,” Local Government Attorneys of Virginia, Norfolk, Virginia. Outline supplied.

May 24, 2013: Speaker, “Civil Liability of Law Enforcement Officers – Please Don’t Sue Me,” Crisis Intervention Team Training – Mental Health America of the Roanoke Valley, Roanoke, Virginia. PowerPoint supplied.

April 26, 2013: Moderator, “Are you Ready for the Affordable Health Care Act,” Local Government Attorneys Spring Conference, Roanoke, Virginia. I introduced the panelists and led a question-and-answer session from the audience. I have no notes, transcript, or recording. The address for the Local Government Attorneys of Virginia is Weldon Cooper Center for Public Service, University of Virginia, 11 South 12th Street, Suite 225, Richmond, Virginia 23219.

November 8, 2012: Guest Speaker, “Section 1983 Cases from the Defense Perspective,” Local Government Practicum at Washington and Lee University School of Law, Lexington, Virginia. I used the same outline supplied for the December 2, 2013 event.

October 22, 2012: Speaker, “Civil Liability of Law Enforcement Officers,” Crisis Intervention Team Training – Mental Health America of the Roanoke Valley, Roanoke, Virginia. PowerPoint supplied.

September 14, 2012: Speaker, “Section 1983, The Defense Perspective,” Roanoke Bar Association, Roanoke, Virginia. Outline supplied.

October 24, 2011: Speaker, “Civil Liability of Law Enforcement Officers,” Crisis Intervention Team Training – Mental Health America of the Roanoke Valley, Roanoke, Virginia. PowerPoint supplied.

February 16, 2011: Program Faculty, “Professionalism for Law Students Program,” Virginia State Bar – Washington & Lee School of Law, Lexington, Virginia. I led a discussion with a small group of law students regarding client and case scenarios that might arise in their legal practices and regarding the character and fitness requirements of the Virginia Board of Bar Examiners. I have no notes, transcript, or recording. The

address of the Virginia State Bar is 1111 East Main Street, Suite 700, Richmond, Virginia 23219.

June 25, 2010: Speaker, "How to Manage Employment Situations: Performance, Discipline, Terminations, the EEOC, and Lawsuits," Local Government Attorneys of Virginia, Danville, Virginia. Outline supplied.

November 19, 2009: Panel Member, "Social Hosting Laws," Botetourt Prevention Planning Team of the Roanoke Area Youth Substance Abuse Coalition, Fincastle, Virginia. I participated in a panel discussion of the social hosting laws in Virginia and the role of local governments. I have no other notes, transcript, or recording, but press coverage is supplied. The address of the Roanoke Area Youth Substance Abuse Coalition is 2720 Liberty Road, Northwest, Roanoke, Virginia 24012.

November 10, 2009: Speaker, "Local Government Powers Regarding Water and Sewer," Virginia Bar Association – Administrative Law Seminar, Richmond, Virginia. Outline supplied.

November 7, 2008: Program Faculty, "Professionalism for Law Students Program," Virginia State Bar – Appalachian School of Law, Grundy, Virginia. Training materials created by the Virginia State Bar with my handwritten notes supplied.

October 21, 2008: Speaker, "Lawfully Managing Student Records Without Violating Privacy Rights," National Business Institute Seminar, Roanoke, Virginia. Outline and PowerPoint created by others with my handwritten notes supplied.

April 24, 2008: Speaker, "The Americans with Disabilities Act and the Proposed ADA Restoration Act of 2007 – 'Even the Wallflowers Will Dance,'" Local Government Attorneys of Virginia, Tysons Corner, Virginia. Outline supplied.

February 14, 2008: Program Faculty, "Professionalism for Law Students Program," Virginia State Bar – Washington & Lee School of Law, Lexington, Virginia. I led a discussion with a small group of law students regarding client and case scenarios that might arise in their legal practices and regarding the character and fitness requirements of the Virginia Board of Bar Examiners. I have no notes, transcript, or recording. The address of the Virginia State Bar is 1111 East Main Street, Suite 700, Richmond, Virginia 23219.

August 23, 2007: Program Faculty, "Professionalism Course," Virginia State Bar Professionalism Course, Roanoke Virginia. I led a discussion with a small group of new lawyers regarding client and case scenarios that might arise in their legal practices. I have no notes, transcript, or recording. The address for the Virginia State Bar is 1111 East Main Street, Suite 700, Richmond, Virginia 23219.

August 23, 2007: Speaker, "The Virginia State Bar's Disciplinary Process," Virginia State Bar Professionalism Course, Roanoke, Virginia. PowerPoint supplied.

May 25, 2007: Speaker, "Avoiding Liability for the Actions of Your Employees," Chiefs / Deputy Chiefs – Executive Development In-Service Training, Radford, Virginia. Outline supplied.

November 2, 2006: Program Faculty, "Professionalism for Law Students Program," Virginia State Bar – Liberty School of Law, Lynchburg, Virginia. I led a discussion with a small group of law students regarding client and case scenarios that might arise in their legal practices and regarding the character and fitness requirements of the Virginia Board of Bar Examiners. I have no notes, transcript, or recording. The address for the Virginia State Bar is 1111 East Main Street, Suite 700, Richmond, Virginia 23219.

October 14, 2006: Speaker, "Defense of Employment Law Cases," Virginia Women's Attorney Association Conference, Virginia. Outline supplied.

August 8, 2006: Speaker, "High Speed Pursuits and Liability," Virginia Association of Chiefs of Police, Roanoke, Virginia. PowerPoint supplied.

May 25, 2006: Speaker, "Employment – Application Through Termination," Virginia Police Chiefs Foundation Executive Development In-Service Training, Radford, Virginia. Notes supplied.

April 28, 2006: Presenter, Roanoke Bar Association Foundation Gala and Law Day presentation of student Kincaid Scholarships, Roanoke, Virginia. I presented scholarships to students interested in pursuing careers in the law. I have no notes, transcript or recording. The address for the Roanoke Bar Association is 5661 Hollins Road, Roanoke, Virginia 24011.

June 16, 2005: Speaker, "Liability Under Federal and State Law," Western Region Jail Association, Virginia. Outline supplied.

March 31, 2005: Speaker, "Avoiding Lawsuits by Inmates – Is it Possible," Western Region Jail Association, Virginia. PowerPoint supplied.

March 18, 2005: Participant, "What is the Virginia State Bar Doing For You," Virginia State Bar – Solo & Small-Firm Practitioner Forum, Abingdon, Virginia. I participated in a panel discussion regarding Virginia State Bar resources for solo practitioners and small firms. I have no notes, transcripts, or recording. The address for the Virginia State Bar is 1111 East Main Street, Suite 700, Richmond, Virginia 23219.

2005: Speaker, Opening remarks at Roanoke Bar Law Day 2005, Roanoke Bar Association, Roanoke, Virginia. I welcomed Roanoke Bar Association members to the Association's celebration of Law Day. I have no notes, transcript, or recording. The address for the Roanoke Bar Association is 5661 Hollins Road, Roanoke, Virginia 24011.

December 14, 2004: Speaker, Welcoming remarks for the "Practice of Law in Southwest Virginia" tour, Roanoke Bar Association, Roanoke, Virginia. I welcomed new Roanoke Bar Association members to a tour of clerks' offices and courtrooms. I have no notes, transcript, or recording. The address for the Roanoke Bar Association is 5661 Hollins Road, Roanoke, Virginia 24011.

March 25, 2004: Speaker, "FOIA," Western Region Jail Association, Roanoke, Virginia. PowerPoint supplied.

November 6, 2003: Speaker, "You Sued Who? 911 Dispatchers and Liability," Virginia Chapter of Association of Public-Safety Communications Officials, Roanoke, Virginia. PowerPoint supplied.

July 18, 2003: Speaker, "Employment – Application through Termination," Local Government Attorneys of Virginia, Abingdon, Virginia. Outline supplied.

April 12, 2003: Speaker, "Relations Between School Boards & Local Governments – Auditing Issues," Local Government Attorneys of Virginia, Wintergreen, Virginia. Outline supplied.

March 2003: Participant, "Preparing and Presenting a CLE," Virginia State Bar – 18th Annual Bar Leaders Institute, Abingdon, Virginia. I participated in a panel discussion regarding how local bar associations can provide their members with continuing legal education. I have no notes, transcript, or recording. The address for the Virginia State Bar is 1111 East Main Street, Suite 700, Richmond, Virginia 23219.

September 20, 2002: Presenter, Awards of Excellence to Virginia General Assembly members on behalf of the Virginia Women Attorneys Association, Williamsburg, Virginia. I presented awards to Virginia General Assembly members. I have no notes, transcript, or recording. The address for the Virginia Women Attorneys Association is P.O. Box 3806, Merrifield, Virginia 22116.

March 1999: Speaker, "Section 1983 – The Basics," Local Government Attorneys of Virginia, Roanoke, Virginia. Outline supplied.

- 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.

On occasion and when I have represented a party in a case, I have answered questions asked of me by reporters regarding pending or concluded cases. I do not have a list of these occasions and did not retain articles or clips. After searching public records, I was able to locate the following articles:

Jeff Sturgeon, *Warner, Kaine Recommend Two for Federal Judicial Post*, THE ROANOKE TIMES, June 9, 2014. Copy supplied.

Peter Vieth, *Armstrong, Dillon Recommended for WD Judgeship*, VIRGINIA LAWYERS WEEKLY, June 9, 2014. Copy supplied.

Melissa Powell, *Suit Filed by Former Montgomery County Sheriff's Captain is Dismissed*, THE ROANOKE TIMES, Feb. 24, 2014. Copy supplied.

Melissa Powell, *Former Informant Pleas No Contest to Fake Drug Scheme*, THE ROANOKE TIMES, Apr. 17, 2013. Copy supplied.

Ralph Berrier, *Yakama Nation, Roanoke County Nearing Accord*, THE ROANOKE TIMES, Feb. 24, 2013. Copy supplied.

Melissa Powell, *Motion Filed to Toss Lawsuit Against Montgomery County Sheriff's Office*, THE ROANOKE TIMES, Jan. 11, 2013. Copy supplied.

Nancy F. Reynolds and Jonnie L. Speight, *Breakfast of Champions*, ROANOKE BAR REVIEW, Sep. 2011. Copy supplied.

Allie Robinson, *Wise County Schools Hearing Continued Until June*, BRISTOL HERALD COURIER, May 19, 2011. Copy supplied.

Amanda Codispoti, *Families File Lawsuit Over Fatal Botetourt Co. Crash: The Lawsuit Says a Volunteer Firefighter Was Driving a Fire Truck in a Dangerous Manner*, THE ROANOKE TIMES, May 27, 2010. Copy supplied.

Mike Gangloff, *Ruling in Police Entry Case Will Stand*, THE ROANOKE TIMES, Feb. 24, 2010. Copy supplied.

Cathy Benson, *U.S. Supreme Court Denies Petition to Hear Botetourt Lawsuit*, THE ROANOKE TIMES, Feb. 23, 2010. Copy supplied.

Mike Gangloff, *Botetourt Case Could be One for High Court*, THE ROANOKE TIMES, Sep. 23, 2009. Copy supplied.

Rex Bowman and Janelle Rucker, *Unpaid Taxes Hound Officials*, THE ROANOKE TIMES, Sep. 3, 2009. Copy supplied.

Laurence Hammack, *Appeals Court: Deputy's Action Was Justified; Virginia*, THE ROANOKE TIMES, June 30, 2009. Copy supplied.

Cathy Benson, *Court Rules Botetourt Deputy has Qualified Immunity in \$10 Million Lawsuit*, THE ROANOKE TIMES, June 29, 2009. Copy supplied.

Pete Dybdahl, *Water Rights Debate Persists in Botetourt: Central Water Co. and Botetourt County Continue to Clash Over New Service Areas*, THE ROANOKE TIMES, Nov. 15, 2008. Copy supplied.

Shawna Morrison, *Widow in Morva Case Files Lawsuit*, THE ROANOKE TIMES, Aug. 20, 2008. Copy supplied.

Mike Gangloff, *King to Get Less Than Jury Awarded: A Judge Said the Damages were Improperly Awarded to the Former Deputy Sheriff*, THE ROANOKE TIMES, May 17, 2008. Copy supplied.

Mike Gangloff, *State Division Says McMillan is Responsible for Suit Payout*, THE ROANOKE TIMES, Jan. 18, 2008. Copy supplied.

*Three More Women File Affidavits v. Roanoke Sheriff*, CLASS ACTION REPORTER, Nov. 20, 2007. Copy supplied.

Tonia Moxley, *Entities Notified of Potential Shooting Suits*, THE ROANOKE TIMES, Oct. 17, 2007. Copy supplied.

Deborah Elkins, *Smith Mountain Rentals Ok for 'Residential' Purposes*, VIRGINIA LAWYERS WEEKLY, June 18, 2007. Copy supplied.

Courtney Cutright, *High Court Reverses Rental Ruling*, THE ROANOKE TIMES, June 12, 2007. Copy supplied.

Reed Williams, *Dormant Fire Board Gets Appeal*, THE ROANOKE TIMES, Mar. 31, 2007. Copy supplied.

Laurence Hammack, *Court Asked to Allow 6 Women to Join Suit Against McMillan: At Issue is Whether the Former Sheriff Faces One or Seven Accusers When the Case Goes to Trial*, THE ROANOKE TIMES, Mar. 15, 2007. Copy supplied.

Lindsey Nair, *Former Postal Employee Wins \$162,500 Settlement*, THE ROANOKE TIMES, Aug. 29, 2006. Copy supplied.

Lindsey Nair, *Harassment Claims Transfer to New Sheriff, Judge Rules*, THE ROANOKE TIMES, Aug. 1, 2006. Copy supplied.

Laurence Hammack, *Lawsuit May Add Current Sheriff*, THE ROANOKE TIMES, Apr. 6, 2006. Copy supplied.

Lindsey Nair, *Talks in Harassment Case Cancelled*, THE ROANOKE TIMES, Mar. 31, 2006. Copy supplied.

Lindsey Nair, *Judge Refers Harassment Suit to Mediation*, THE ROANOKE TIMES, Feb. 28, 2006. Copy supplied.

*Former Deputy Faces Civil Rights Count*, RICH. TIMES DISPATCH, Feb. 8, 2006. Copy supplied.

Lindsey Nair, *Former Employee Sues Post Office, Cites Harassment*, THE ROANOKE TIMES, Feb. 4, 2006. Copy supplied.

Laurence Hammack, *Judge Denies Class-Action Status for Case*, THE ROANOKE TIMES, Oct. 21, 2005. Copy supplied.

September 21, 2005: Press conference announcing Sheriff McMillan's intention to fight a federal lawsuit alleging sexual harassment. Representative press coverage supplied.

Lindsey Nair, *Roanoke Sheriff Has 3 More Accusers*, THE ROANOKE TIMES, Sept. 21, 2005. Copy supplied.

Lindsey Nair, *All Quiet in the Court*, THE ROANOKE TIMES, Dec. 31, 2004. Copy supplied.

JoAnne Poindexter, *Woman Asks Court to Rehear Lawsuit About Questioning*, THE ROANOKE TIMES, Dec. 4, 2004. Copy supplied.

Greg Esposito, *Firm Fills in for Ailing Town Attorney*, THE ROANOKE TIMES, Sep. 11, 2004. Copy supplied.

Paul Dellinger, *Brown to Serve Again as Radford's Vice Mayor*, THE ROANOKE TIMES, July 3, 2004. Copy supplied.

Matthew Phillips, *Roanoke Lawyers Lend Hand to Promote Reading*, VIRGINIA LAWYERS WEEKLY, July 21, 2003. Copy supplied.

Deborah Elkins, *Patrick Is 2003's Legal Aid Lawyer of the Year*, VIRGINIA LAWYERS WEEKLY, June 30, 2003. Copy supplied.

Todd Jackson, *Reassignment Sparks Official Investigation*, THE ROANOKE TIMES, June 26, 2003. Copy supplied.

Dawn Chase, *VWAA First Group to Use Reelection Endorsements*, VIRGINIA LAWYERS WEEKLY, May 19, 2003. Copy supplied.

Laurence Hammack, *Lawsuit Against Roanoke Police Dismissed*, THE ROANOKE TIMES, Mar. 22, 2003. Copy supplied.

Dawn Chase, *Legislators Explain New Judicial Election Process*, VIRGINIA LAWYERS WEEKLY, Mar. 3, 2003. Copy supplied.

Tad Dickens, *Panel Rules Against Officers Who Say Promotions Unfair*, THE ROANOKE TIMES, Sept. 13, 2002. Copy supplied.

Todd Jackson, *Land Trade May Delay New School Site Roanoke Wants to Give Federal Government May Be Too Contaminated to Use as Park*, THE ROANOKE TIMES, Jan. 30, 2002. Copy supplied.

Tad Dickens, *Lawyer Claims Police Chief Unfairly Promoted Woman*, THE ROANOKE TIMES, Aug. 25, 2001. Copy supplied.

Kimberly O'Brien, *Roanoke Police Take Promotions Policy Complaints to Court*, THE ROANOKE TIMES, Aug. 21, 2001. Copy supplied.

Jen McCaffery, *Suit Against Officer to be Tried: Doctor Says Plaintiff, Wilbert Wesley Lewis, May Have Been Shot From Behind*, THE ROANOKE TIMES, Mar. 29, 2001. Copy supplied.

Michael Sluss, *Judge's Plight Sparks Debate Ousted Jurist Not Invited to Speak*, THE ROANOKE TIMES, Feb. 17, 2001. Copy supplied.

Michael Hemphill, *Woman Sues U.S. Postal Service Over Harassment at Roanoke, Va., Office*, THE ROANOKE TIMES, Feb. 22, 2000. Copy supplied.

Michael Hemphill, *Suit Opens Post Office to Scrutiny*, THE ROANOKE TIMES, Feb. 21, 2000. Copy supplied.

Michael Hemphill, *Woman Files \$1.5 Million Suit Against Post Office*, THE ROANOKE TIMES, Feb. 3, 2000. Copy supplied.

Kathy Loan, *Officer Suing Christiansburg Leaves Police Force*, THE ROANOKE TIMES, Dec. 12, 1992. Copy supplied.

Kathy Loan, *Officers' Lawsuit Draws Support, Denial River Valley Bureau*, THE ROANOKE TIMES, Sept. 10, 1992. 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.

I have not held judicial office.



- 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.

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:

I have not served as a judge.

- 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.

**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.

I have not held public office. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- 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 not been a member of, held office in, or rendered services to any political party or election committee. I have not held a position or played a role in a 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 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.

1986 – 1998  
Woods, Rogers & Hazlegrove, P.L.C.  
(Now: Woods Rogers P.L.C.)  
10 South Jefferson Street, Suite 1400  
Roanoke, Virginia 24011  
Senior Attorney (1993 – 1998)  
Associate (1986 – 1992)

1999 – 2000  
Gynn & Dillon, P.C.  
1215 Corporate Circle  
Roanoke, Virginia 24018  
Officer/Director/Shareholder/Attorney

2000 – 2003  
Office of the City Attorney, City of Roanoke  
215 Church Avenue, S.W.  
Noel C. Taylor Municipal Building, Room 464  
Roanoke, Virginia 24011  
Assistant City Attorney

2004 – present  
Gynn & Dillon, P.C.  
(previously Gynn, Memmer & Dillon, P.C.)  
415 South College Avenue  
Salem, Virginia 24153  
Officer/Director/Shareholder/Attorney

- 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 served as an arbitrator in one matter at the request of the attorneys involved.

The case involved a personal injury suffered in an automobile accident with the defendant admitting liability. After presentation of the evidence, I determined the amount of damages to be paid to the plaintiff.

b. Describe:

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

I began my law practice with a large firm in Roanoke in 1986 working as an associate and then as a senior attorney. Initially, I assisted with litigation and transactional matters, such as contract preparation and review, and then focused on a litigation practice. Extensive work defending Section 1983 cases brought by pro se prisoners later led to supervising others who were defending those cases. I then concentrated on a broader range of Section 1983 and Title VII cases representing local governments, school boards, constitutional officers, and the employees of those entities. I also represented clients through their insurance companies in workers' compensation, automobile liability defense, product liability defense, and general defense litigation in federal and state courts.

In 1999, I moved to a smaller firm of just two attorneys to continue to concentrate on representation of public entities in Section 1983 and Title VII cases. I assisted public entities, particularly in the areas of law enforcement and employment law, in instituting and updating policies and procedures and training supervisors and employees on those policies and procedures in order to comply with the law and best practices. I also represented state employees in medical malpractice cases brought against them. I continued to provide representation to clients through their insurance companies in general defense litigation in federal and state courts. On occasion, I represented plaintiffs in EEOC matters and employment cases, and I advised employees with regard to employment agreements and severance agreements.

After consulting with my law partner, I took the opportunity to work in-house for the City of Roanoke in 2000, where I represented the Police Department, Fire Department, E-911 Office, Human Resource Department, Purchasing Division, and Roanoke City School Board. I provided legal advice; drafted resolutions, contracts and policies; and provided representation in administrative matters before the EEOC and before grievance panels and in litigation in state and federal court. The city was self-insured, so we handled most of the litigation by or against the city in-house.

I returned to private practice in 2004 with the same small firm. I have the same extensive practice in trial and appellate work in federal and state courts in employment law and civil rights defense representing public employers and employees. I also serve as part-time local government attorney for several local governments and attend their meetings and provide representation and daily assistance on all legal issues that arise. I advise other local governments in law enforcement and employment matters on an as needed basis. I represent local governments before the EEOC and before

grievance panels. On occasion, I assist plaintiffs in matters before the EEOC and in employment cases and advise employees with regard to employment agreements and severance agreements.

- 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, my clients typically have been counties, cities, towns, school boards, sheriffs, commonwealth's attorneys, clerks of court, and the employees of the same. I have also represented private individuals and businesses. During the three years I served in-house with the City of Roanoke, my clients were the City, the City School Board, and employees of the City and the City School Board.

- 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.

Through the end of the year 2000, approximately 90% of my work had been litigation. I frequently appeared in court. When I worked for the City of Roanoke, approximately 50% of my work was litigation, and I appeared in court regularly. Beginning in the year 2004, approximately 65% of my work has been litigation, and I have appeared in court regularly.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 70% |
| 2. state courts of record:  | 19% |
| 3. other courts:            | 1%  |
| 4. administrative agencies: | 10% |

- ii. Indicate the percentage of your practice in:

- |                          |      |
|--------------------------|------|
| 1. civil proceedings:    | 100% |
| 2. criminal proceedings: | 0%   |

- 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 estimate that I have handled approximately 400 cases to verdict, judgment or final decision. In most of these cases, I was lead counsel.

- i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 10% |
| 2. non-jury: | 90% |

- 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.

*Campbell v. Kocher*, 132 S. Ct. 847 (2011) (brief in opposition to petition for a writ of certiorari, 2011 WL 5439073)

*Hunsberger v. Wood*, 559 U.S. 938 (2010) (brief in opposition to petition for a writ of certiorari, 2010 WL 197490).

*King v. McMillan*, 552 U.S. 991 (2007) (brief in opposition to petition for a writ of certiorari, 2007 WL 2858225).

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. *Mountain View Limited Partnership, et al. v. Clifton Forge*, 256 Va. 304, 504 S.E.2d 371 (1998), before the Honorable Duncan M. Byrd, Jr. in the Circuit Court for Alleghany County (1992 – 1998).

In 1991, the City of Clifton Forge increased its refuse collection fees. Two limited partnerships that operated apartment complexes sued alleging that the fees were impermissible taxes and that the fee classifications were not valid. The apartment complexes had dumpsters that were emptied by the City, but they were charged per residential unit. The trial court upheld the fees. On appeal, the plaintiffs argued that because the fees generated a surplus, they were an impermissible tax that funded other City functions. They conceded that a surplus could be maintained, but that the City's surplus was too large. The Supreme Court of Virginia upheld the validity of the fees, and stated that fees are not invalid merely because a surplus exists and that the accounting methods and allocations used by the City did not change this result. The Court also upheld the classifications used by the City. I served as sole counsel at the bench trial representing the City of Clifton Forge and assisted with the brief on appeal to the Supreme Court of Virginia.

Co-counsel for Defendant City of Clifton Forge:

Frank K. Friedman  
Woods Rogers PLC  
10 South Jefferson Street  
Suite 1400  
Roanoke, VA 24011  
(540) 983-7600

Counsel for Plaintiffs:

Ellen Arthur  
Ellen Arthur PC  
729 North Lee Highway  
Lexington, VA 24450  
(540) 463-2052

2. *Buonocore v. Harris et al.*, 65 F.3d 347 (4th Cir. 1995) (interlocutory appeal), *aff'd*, 134 F.3d 245 (4th Cir. 1998) (appeal following trial), United States District Court for the Western District of Virginia, Roanoke Division, before the Honorable Jackson L. Kiser (1993 – 1998).

I represented Deputy Cundiff, who was assisting the Bureau of Alcohol, Tobacco and Firearms with a search warrant for illegal weapons following receipt of information from an informant, in this *Bivens* action. The same informant, who had provided information regarding the weapons, stated that Mr. Buonocore had stolen property belonging to Mr. Buonocore's employer at the house. After seeking advice from the Commonwealth's Attorney, Deputy Cundiff invited the employer's security officer to accompany the officers on the federal warrant for illegal weapons so he could identify any stolen property that might be seen in plain view. The trial court denied summary judgment finding that qualified immunity was not available because of disputes of fact. The Fourth Circuit agreed upon interlocutory appeal. At trial, the jury found for the plaintiff against Deputy Cundiff and awarded a small amount in damages to plaintiff. The Fourth Circuit upheld the jury's verdict. I served as lead counsel in the trial and appeals of this matter.

Counsel for Plaintiff Buonocore:

Terry N. Grimes, Esquire  
Law Offices of Terry N. Grimes, P.C.  
Franklin Commons  
320 Elm Avenue, Southwest  
Roanoke, VA 24016  
(540) 982-3711 (ext. 303)

John T. Boitnott  
John T. Boitnott Attorney  
5 East Court Street, Number 301

Rocky Mount, VA 24151  
(540) 483-8820

Counsel for Defendant Harris:  
Morgan E. Scott, Jr.  
Woods Rogers PLC  
1872 Pratt Drive, Suite 1290  
Blacksburg, VA 24060  
(540) 552-2941

Richard A. Llorett  
Current business contact information unavailable

Counsel for Defendants Chesapeake and Potomac Telephone Company of Virginia and James D. Thompson:  
William Paul Wallace, Jr.  
Johnson Ayers & Matthews PLC  
210 First Street, Suite 300  
Roanoke, VA 24011  
(540) 767-2034

3. *Drizos v. City of Salem, et al.*, Civil Action No. 775CL94000065, before the Honorable Barnard F. Jennings in the Circuit Court for the City of Salem (1994 – 1995).

I represented, and served as lead counsel for, the City of Salem, the Commonwealth's Attorney for the City of Salem, and Salem Police Officer Lowe in this malicious prosecution action. Plaintiff alleged, among other things, that his arrest for sexual assault was without probable cause, that a photo line-up improperly influenced the victim, and that the Commonwealth and all parties continued with his criminal prosecution with malice. The Commonwealth's Attorney was dismissed from the case on the grounds of prosecutorial immunity. The case was tried before a jury. Following presentation of all of the evidence, the court granted the defendants' motion to strike the case and entered judgment in favor of the defendants.

Co-counsel for Defendants City and Lowe:  
Thomas R. Bagby  
Woods Rogers PLC  
10 South Jefferson Street, Suite 1400  
Roanoke, VA 24011  
(540) 983-7766

Counsel for Plaintiff Drizos:  
John A. Ridley  
DrinkerBiddle



600 Campus Drive  
Florham Park, NJ 07932  
(973) 549-7030

J. Timothy McDonald  
Thompson Hine  
Two Alliance Center  
3560 Lenox Road Northeast, Suite 1600  
Atlanta, GA 30326  
(404) 407-3623

William H. Lindsey  
Capital Defender (Western)  
3021 Peters Creek Road  
Roanoke, VA 24019  
(540) 562-3595

4. *Sakellaris v. Lewis, et al.*, Civil Action No. 4:96-cv-70107, before the Honorable Jackson L. Kiser in the United States District Court for the Western District Court of Virginia, Danville Division (1996 – 1998).

Mr. Sakellaris filed suit alleging that he was unlawfully arrested after an improper traffic stop and then suffered excessive use of force during the arrest and while handcuffed. I served as lead trial counsel in representing three police officers and the City of Danville. The criminal charges placed against the plaintiff at the time of his arrest were dismissed. Although the plaintiff had photographs of a circular bruise in the center of his forehead, the officers testified that he beat his own head against the Plexiglas in the police vehicle following his arrest. The magistrate, who had heard parts of the encounter over the radio, testified on behalf of the officers. The jury found in favor of the three individual officers. The case did not proceed against the city with regard to municipal liability because there was no underlying constitutional violation.

Co-counsel for Defendant:  
Richard Hawkins  
(Formerly with Woods, Rogers & Hazlegrove, P.L.C.)  
The Hawkins Law Firm PC  
2222 Monument Avenue  
Richmond, VA 23220-2724  
(804) 308-3040

Counsel for Plaintiff:  
Arthur P. Strickland  
Strickland, Diviney, & Strelka  
23 Franklin Road, Southwest  
Roanoke, VA 24011  
(540) 982-7787

Jane A. Harden  
Current business contact information unavailable

5. *Freeman v. Potter*, No. 4:00CV71 (Title VII claim) before the Honorable Samuel G. Wilson, United States District Court for the Western District of Virginia, Roanoke Division (1998 to 2000); *Freeman v. Potter*, No. 7:04CV276 (Breach of Contract), 2005 U.S. Dist. LEXIS 3488 (W.D. Va. Mar. 8, 2005) (denying motion to dismiss), 2005 U.S. Dist. LEXIS (W.D. Va. Sept. 13, 2005) (denying summary judgment on breach of contract claim, granting summary judgment on plaintiff's Title VII claim), 2006 U.S. Dist. LEXIS 65329 (W.D. Va. Sept. 13, 2006) (Magistrate recommendation), before the Honorable William L. Osteen, Sr., United States District Court for the Western District of Virginia, Roanoke Division (2004 – 2006).

I represented Ms. Freeman, an African-American employed by the U.S. Postal Service, in two actions filed against her employer. Among other allegations, Ms. Freeman stated that certain employees made ape noises when she walked by the area where they worked and that an employee announced a fried chicken and watermelon feast in her honor over the loudspeaker at the plant. I first represented Ms. Freeman in the lengthy, federal EEO process that did not resolve the matter. She then filed a Title VII action alleging racial and sex discrimination. After mediation with the Honorable Glen E. Conrad, then the U.S. Magistrate Judge, the parties entered a Memorandum of Settlement wherein, among other things, the Postal Service was to place Ms. Freeman in a window clerk position in exchange for dismissal of the lawsuit. When she was not placed in a window clerk position, she filed another suit for breach of contract and retaliation. Ms. Freeman prevailed on her breach of contract claim at a bench trial. I prepared the case for trial, but my law partner successfully tried the case at a bench trial when I was listed as a witness by the Postal Service. Ms. Freeman was compensated and placed in a window clerk position.

Co-counsel for Plaintiff:  
Jim H. Guynn, Jr.  
Guynn & Dillon, P.C.  
415 South College Avenue  
Salem, VA 24153  
(540) 387-2320

Counsel for Defendant:  
Kathryn Good  
Current business contact information unavailable

Julia C. Dudley  
Now Clerk of Court  
United States District Court for the Western District of Virginia  
210 Franklin Road, Suite 540

Roanoke, VA 24011  
(540) 857-5100

6. *Altizer, et. al. v. City of Roanoke*, Civil Action No. 03-1429, 2003 U.S. Dist. LEXIS 4303 (W.D. Va. March 21, 2003), *aff'd*, 78 F.App'x 301 (4th Cir. 2003), before the Honorable Samuel G. Wilson in the United States District Court for the Western District of Virginia, Roanoke Division (2002 – 2003).

Three white police officers, two male and one female, sued the City of Roanoke for reverse discrimination alleging that an African American, female officer was promoted ahead of them because of her race and because she was a friend of the Police Chief. The white, female officer also alleged gender discrimination. Following discovery, I moved for summary judgment on behalf of the city, and the court granted summary judgment because the city was able to show legitimate reasons for promoting the African American officer and the plaintiffs were unable to show that those legitimate reasons were a pretext for discrimination. The Fourth Circuit approved the trial court's decision. I served as lead counsel for the city in the trial court and on appeal.

Co-counsel for Defendant:  
William M. Hackworth (retired)  
Former City Attorney, City of Roanoke  
Current business contact information unavailable

Counsel for Plaintiff:  
Terry N. Grimes, Esquire  
Law Offices of Terry N. Grimes, P.C.  
Franklin Commons  
320 Elm Avenue, Southwest  
Roanoke, VA 24016  
(540) 982-3711

7. *King v. McMillan et al.*, Civil Action No. 7:05CV00521, before the Honorable Samuel G. Wilson, United States District Court for the Western District of Virginia, Roanoke Division (2005 to 2008). Intervention issue: 2006 U.S. Dist. 221 (W.D. Va. Jan. 5, 2006), *aff'd*, 233 Fed. App'x. 242 (4th Cir. 2007), *cert. denied*, 552 U.S. 991 (2007). Trial issues: 2005 U.S. Dist. LEXIS 24256 (W.D. Va. Oct. 20, 2005) (denying class certification and denying motion to dismiss), 2006 U.S. Dist. LEXIS 51859 (W.D. Va. July 28, 2006) (denying motion to dismiss), 2008 U.S. Dist. LEXIS 28642 (W.D. Va. Apr. 8, 2008) (denying motions for judgment as a matter of law and for a new trial), *remitted*, 2008 U.S. Dist. LEXIS 29691 (W.D.Va. May 14, 2008), *aff'd*, 594 F.3d 301 (4th Cir. 2010).

Plaintiff King filed a lawsuit against the then current Sheriff McMillan, whom I represented, alleging sex discrimination/harassment, a hostile work environment, and constructive discharge, all in violation of Title VII, and a supplemental state claim for assault and battery. Plaintiff sought to have a class action certified and moved to have six

putative plaintiffs intervene in the case. Plaintiff sought to have the court adopt the single filing rule that allows persons to intervene in a Title VII lawsuit even though they have not filed EEOC charges. The single filing rule had been adopted in some other federal circuits, but not in the Fourth Circuit. I argued, on behalf of the Sheriff, that the putative plaintiffs could not intervene even if the court adopted the single filing rule. The Fourth Circuit held that the claims of the proposed intervenors were time barred so it need not decide whether to recognize the single filing rule. Plaintiff's petition for writ of certiorari to the U.S. Supreme Court on this issue was denied. Defendant Sheriff McMillan lost his reelection bid, and the trial court ruled that the new sheriff was to be substituted with regard to the Title VII claim. Defendant McMillan remained in the case as to the assault and battery claim. A jury returned a verdict in favor of the plaintiff as to all claims, and the Fourth Circuit Court of Appeals upheld the jury's verdict. I served as sole counsel for Sheriff McMillan in the trial court and on appeal.

Counsel for Defendant Sheriff Johnson:

The Honorable John A. Gibney, Jr. (prior to his appointment to the bench)  
 United States District Court, Eastern District of Virginia  
 701 East Broad Street  
 Richmond, VA 23219  
 (804) 916-2870

Counsel for Plaintiff:

Terry N. Grimes, Esquire  
 Law Offices of Terry N. Grimes, P.C.  
 Franklin Commons  
 320 Elm Avenue, Southwest  
 Roanoke, VA 24016  
 (540) 982-3711

Melvin Williams  
 (Formerly with Grimes and Williams)  
 Mel Williams PLC  
 1320 3rd Street, Southwest  
 Roanoke, VA 24016  
 (540) 266-7800

8. *Hunsberger v. Wood et al.*, 564 F. Supp. 2d 559 (W.D. Va. 2008), *rev'd*, 570 F.3d 546 (4th Cir. 2009), *reh'g denied and reh'g en banc denied*, 583 F.3d 219 (4th Cir. 2009), *cert. denied*, 559 U.S. 938 (2010), *reh'g denied*, 559 U.S. 1088 (2010), before the Honorable Samuel G. Wilson, United States District Court for the Western District of Virginia, Roanoke Division (February 2007 – April 2010).

I represented Sergeant Wood, who was twice called by a neighbor who reported suspicious activity at her neighbor's house and who believed that the homeowners were not home. Sergeant Wood observed suspicious activity that seemed to confirm that persons were in the house that should not be there. He was also confronted with a

concerned stepfather who reported that his stepdaughter was missing, that her car was in front of the house and that the stepfather did not know the owners of the house. Sergeant Wood, followed by the stepfather, entered the house without a warrant. His search ultimately did not reveal vandalism or the missing girl, who was hiding with some other teens who had been drinking alcohol. Sergeant Wood was confronted by the homeowners in the house as the neighbor had been mistaken about their absence. The trial court denied Sergeant Wood's motion for summary judgment. Finding that an emergency existed that required Sergeant Wood to enter the home promptly, the Fourth Circuit reversed the trial court. The appellate court ruled that Sergeant Wood did not violate the Fourth Amendment and lawfully entered the house. Because there was no constitutional violation, the court did not reach a qualified immunity analysis. The court examined *Brigham City v. Stuart*, 547 U.S. 398 (2006), and drew a distinction between the community caretaking exception and the exigent circumstances exception to the warrant requirement. The court concluded that the presence of the civilian stepfather did not make the entry unlawful because his presence would have aided in the identification of his missing stepdaughter had she been found. Plaintiffs' request for rehearing was denied in a written opinion. The Supreme Court denied the plaintiffs' petition for certiorari and petition for rehearing. I served as lead counsel for Sergeant Wood in the trial and appellate courts.

Counsel for Defendant Blessard:  
Katherine Londos  
Frith, Anderson & Peake, P.C.  
29 Franklin Road, Southwest  
Post Office Box 1240  
Roanoke, VA 24006  
(540) 772-4600

Counsel for Plaintiffs:  
Terry N. Grimes, Esquire  
Law Offices of Terry N. Grimes, P.C.  
Franklin Commons  
320 Elm Avenue, Southwest  
Roanoke, VA 24016  
(540) 982-3711

Melvin Williams  
(Formerly with Grimes and Williams)  
Mel Williams PLC  
1320 3rd Street, Southwest  
Roanoke, VA 24016  
(540) 266-7800

9. *Estate of Russell v. Wright et al.*, 916 F. Supp. 2d 629 (W.D. Va. 2013), before the Honorable Glen E. Conrad, United States District Court for the Western District of Virginia, Charlottesville Division (2011 – 2013).

In October 2010, defendant Deputy Wright responded to a call involving a father, Mr. Russell, kicking his nine year old son in the ribs. Deputy Wright and another deputy responded and followed the father who was fleeing the scene in a vehicle. Mr. Russell eventually pulled over and stopped and exited his vehicle so quickly that the first officer on the scene pulled his service weapon. Mr. Russell failed to comply with the officer's repeated commands to get down on the ground, and Deputy Wright used a taser to gain control of Mr. Russell. Mr. Russell became unresponsive, was in a coma for approximately seven months, and died. Mr. Russell's estate filed suit in state court against Deputy Wright for use of excessive force, gross negligence, assault, and battery, and against TASER International for products liability claims. I represented Deputy Wright and removed the case to federal court. Following extensive discovery, including video analysis and depositions across the country, the trial court granted summary judgment to Deputy Wright finding that qualified immunity protected him from suit. Later, after TASER International resolved the remaining claims against it, plaintiff filed an appeal as to Deputy Wright and the parties reached a resolution.

Counsel for Defendant TASER International, Inc.:  
 Isaiah Fields  
 TASER International, Inc.  
 17800 North 85th Street  
 Scottsdale, AZ 85255  
 (480) 502-6280

Jeremy Carroll  
 Glenn, Feldmann, Darby & Goodlatte  
 37 Campbell Avenue, Southwest  
 Post Office Box 2887  
 Roanoke, VA 24001  
 (540) 224-8036

Counsel for Plaintiff:  
 Peter Miller  
 The Miller Firm, LLC  
 108 Railroad Avenue  
 Orange, VA 22960  
 (540) 672-4224

10. *Hash v. Close, et al.*, Civil Action No. 3:12-CV-00065, before the Honorable Glen E. Conrad, United States District Court for the Western District of Virginia, Charlottesville Division (2012 – 2014).

This civil case arose following the granting of a federal habeas petition, on summary judgment in a 64-page opinion, filed by plaintiff Hash following his murder conviction and 12 years of imprisonment. I served as lead counsel representing the former Culpeper County Commonwealth's Attorney, Mr. Close, who prosecuted the murder case in state court. Plaintiff brought due process claims against Close alleging fabrication of

testimony regarding plaintiff's confession, suppression of evidence before and after the conviction, conspiracy, and a state claim for malicious prosecution. Mr. Close denied the allegations of wrongdoing and asserted defenses. The case required the review of and familiarity with the underlying criminal proceedings involving plaintiff and two other persons who were charged with the same crime. The case also required familiarity with some of the differences in criminal procedure between state and federal court. Following discovery, the matter resolved to the satisfaction of all parties.

Counsel for Defendant Jenkins:

James M. Bowling, IV  
St. John, Bowling, Lawrence & Quagliana, LLP  
416 Park Street  
Charlottesville, VA 22902  
(434) 296-7138

Counsel for Defendant Mack:

Brian J. Brydges  
Johnson, Ayers & Matthews, PLC  
Post Office Box 2200  
Roanoke, VA 24009  
(540) 767-2042

Counsel for Defendants Cave and Dwyer:

Katherine C. Londos  
Frith, Anderson & Peake, P.C.  
29 Franklin Road, Southwest  
Post Office Box 1240  
Roanoke, VA 24006  
(540) 772-4600

Counsel for Plaintiff Hash:

Matthew P. Boshier  
Hunton & Williams, LLP  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, VA 23219  
(804) 788-8585

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.)

In my capacity as counsel for local governments and other public entities, I often provide a broad range of legal services. For example, while employed with the City of Roanoke, the School Board wished to build a new school. The desired location was on park property conveyed to the city by the United States and was restricted to park use. I conducted research and worked with the National Park Service to arrange for and obtain approval of a transfer of properties in order to build the school on the desired location.

I also often provide training on the laws regarding harassment and discrimination for local governments, school boards, law enforcement officers, and correctional officers. This training is designed to inform all trainees as to the law and the consequences of violating the law. Employees are taught about the employers' policies and the need to file a complaint. Supervisors are taught to respond appropriately to complaints and to take action appropriate to the conduct involved.

Over the years, I have been active in many bar associations and bar activities. Through those bar associations, I have been involved with young people, giving them exposure to what a lawyer is and does. For example, the Roanoke Bar Association's Barrister Book Buddies program places lawyers in elementary school classrooms to read to children. The Youth Court program, which was coordinated by Roanoke Bar Association members, allowed high school students who were facing discipline and who admitted to their conduct to appear before a jury of their peers. The jury then determined the student's punishment. Every student who was disciplined also had to participate at a later proceeding as a juror. These programs allow diverse groups of children and teens to see lawyers as involved community participants and to consider the law as a profession. The Virginia State Bar's Professionalism Course and Law School Professionalism Course prepare law students and newly admitted lawyers for the practical application of professionalism in the workplace beyond the Rules of Professional Conduct.

I have not performed any 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.

None.

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.

I have deferred income in a vested Guynn & Dillon, P.C. employer sponsored simple IRA.



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 do not have any plans, commitments, or agreements to pursue outside employment if confirmed.

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).

Please 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).

Please see attached Net Worth Statement.

24. **Potential Conflict 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.

My husband works for One Beacon Insurance Group. If confirmed, I would recuse myself from matters involving One Beacon Insurance Group. Because of my relationship with Guynn & Dillon, P.C., I would recuse myself for an appropriate length of time from cases involving any attorneys who are currently employed by Guynn & Dillon, P.C.

I also would recuse myself for an appropriate period of time from cases involving the City of Roanoke because of my former employment with the City of Roanoke and my relationship with attorneys employed by the city. I would recuse myself from cases involving counties, cities, towns, constitutional officers, and official and employees of the same that I have represented or taught in a training course for a reasonable period of time.

- 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 would follow the recusal statutes and the Code of Conduct for United States Judges. I would recuse myself when necessary to resolve any real or apparent conflict of interest.

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.

I have participated in pro bono activity by providing pro bono legal services in individual cases, through my service on the Virginia State Bar's Clients' Protection Fund Board, and by providing training on a pro bono basis to law enforcement officers.

For example, I recently represented a gentleman who was employed and hoped to better his situation with a new job. Because of learning disabilities, he had received a special education high school diploma. He interviewed for the position and told the interviewer that he could not read. Based upon his experience, he was hired. Just one week after he began working for the new company, he was fired for not being able to read. He lost his job and health insurance. I represented him without charge in a letter to the employer and in an EEOC charge, after which the company returned him to work.

I also have served on the Virginia State Bar's Clients' Protection Fund Board since 2011. When a client loses money or property because of dishonest conduct by his or her lawyer, the client may petition the Board for reimbursement of the lost money or property, which may include unearned fees paid to the lawyer and money or property that has been misappropriated. Each Board member is assigned to investigate petitions and make recommendations to the Board. The Board then determines whether the client is entitled to reimbursement under the rules and the amount of reimbursement.

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.

The Virginia State Bar, at the request of Senator Mark Warner and Senator Timothy Kaine, reviewed application materials and conducted in-person interviews of candidates for the judicial vacancy in the United States District Court for the Western District of Virginia. On March 3, 2014, I submitted my materials to the Virginia

State Bar. I also submitted written materials to eight other bar associations. On March 26 and April 3, 2014, I interviewed with all organizations who gave me the opportunity to do so. On April 22, 2014, I interviewed with senior staff members for Senator Warner and Senator Kaine in Washington, D.C. On May 14, 2014, I interviewed with Senator Warner and Senator Kaine in Washington, D.C. On June 9, 2014, I received a call from Senator Kaine advising me that my name would be sent to the White House for consideration for the judicial position. Since July 8, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On August 26, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On September 18, 2014, 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.

AO 10  
Rev. 1/2014

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)

1. Person Reporting (last name, first, middle initial) Dillon, Elizabeth K.	2. Court or Organization U.S. District Court, Western District of Virginia	3. Date of Report 09/26/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge - Nominee	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination      Date 09/18/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input checked="" type="checkbox"/> Amended Report	6. Reporting Period 01/01/2013 to 09/18/2014
7. Chambers or Office Address Guynn & Dillon, P.C. 415 South College Avenue Salem, Virginia 24153  <b>IMPORTANT NOTES:</b> The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.		

**I. POSITIONS.** (Reporting individual only; see pp. 9-13 of filing instructions.)

NONE (No reportable positions.)

POSITION	NAME OF ORGANIZATION/ENTITY
1. President, director, and employee	Guynn & Dillon, P.C. (previously Guynn, Memmer & Dillon, P.C.)
2. Managing member	Blueacre, L.L.C.
3. Director	Local Government Attorneys of Virginia, Inc.
4.	
5.	

**II. AGREEMENTS.** (Reporting individual only; see pp. 14-16 of filing instructions.)

NONE (No reportable agreements.)

DATE	PARTIES AND TERMS
1.	
2.	
3.	

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Dillon, Elizabeth K.	<b>Date of Report</b> 09/26/2014
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**III. NON-INVESTMENT INCOME** (Reporting individual and spouse; see pp. 17-24 of filing instructions.)

**A. Filer's Non-Investment Income**

NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2014	Gynn & Dillon, P.C. (previously Gynn, Memmer & Dillon, P.C.) - salary	\$64,882.17
2. 2013	Gynn, Memmer & Dillon, P.C. - salary	\$109,288.58
3. 2012	Gynn, Memmer & Dillon, P.C. - salary	\$116,848.85
4.		

**B. Spouse's Non-Investment Income** - If you were married during any portion of the reporting year, complete this section.  
(Dollar amount not required except for honoraria.)

NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2014	OneBeacon Insurance Group - salary
2. 2013	OneBeacon Insurance Group - salary
3.	
4.	

**IV. REIMBURSEMENTS** -- transportation, lodging, food, entertainment.  
(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

NONE (No reportable reimbursements.)

	<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1.	Exempt				
2.					
3.					
4.					
5.					

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Dillon, Elizabeth K.	<b>Date of Report</b> 09/26/2014
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**V. GIFTS.** *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

NONE *(No reportable gifts.)*

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1.	Exempt		
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*

NONE *(No reportable liabilities.)*

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.			
2.			
3.			
4.			
5.			

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Dillon, Elizabeth K.	<b>Date of Report</b> 09/26/2014
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**VII INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "OX" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
1. Brokerage Account #:					Exempt					
2. Merrill Lynch Bank Deposit Program	A	Int./Div.	J	T						
3. Franklin High Yield Tax Free Inc Fund Adv CL - FHYVX	A	Dividend	J	T						
4. Kayne Anderson MLP - KYN	A	Dividend	J	T						
5. Loomis Sayles Bond FD INSTL CL - LSBDX		None	J	T						
6. Mainstay Large CAP Growth Fund CL I - MLAIX	B	Dividend	K	T						
7. Market Vectors Intermediate Municiple Index ETF - ITM	A	Dividend	J	T						
8. Oppenheimer Developing Markets FD CL Y		None	J	T						
9. Oppenheimer International Growth Fund CL Y - OIGYX		None	J	T						
10. Spider Nuveen Barclays ST Municipal Bond ETF		None	J	T						
11. T Rowe Price Virginia Tax Free Bond Fund CL None - PRVAX	A	Dividend	J	T						
12. T Rowe Price Small CAP - PRSVX		None	J	T						
13. Vanguard Value ETF - VTV	A	Dividend	K	T						
14. Vanguard Growth ETF - VUG		None	J	T						
15. Vanguard Dividend ETF - VIG	A	Dividend	K	T						
16. Columbia Dividend Income Fund CL (Proceeds from liquidation of asset)	B	Distribution								
17. Tortoise North American Energy Corp (liquidation of asset)	A	Distribution								

1. Income Gain Codes: A=\$1,000 or less B=\$1,001 - \$2,500 C=\$2,501 - \$5,000 D=\$5,001 - \$15,000 E=\$15,001 - \$50,000  
 (See Columns B1 and D4) F=\$50,001 - \$100,000 G=\$100,001 - \$1,000,000 H1=\$1,000,001 - \$5,000,000 H2=More than \$5,000,000  
 2. Value Codes: J=\$15,000 or less K=\$15,001 - \$50,000 L=\$50,001 - \$100,000 M=\$100,001 - \$250,000  
 (See Columns C1 and D3) N=\$250,001 - \$500,000 O=\$500,001 - \$1,000,000 P1=\$1,000,001 - \$5,000,000 P2=\$5,000,001 - \$25,000,000  
 3. Value Method Codes: Q=Appraisal R=Cent (Real Estate Only) S=Assessment T=Cash Market  
 (See Column C2) U=Book Value V=Other W=Estimated

**FINANCIAL DISCLOSURE REPORT**  
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<b>Name of Person Reporting</b> Dillon, Elizabeth K.	<b>Date of Report</b> 09/26/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-68 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "X" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.) (J-P)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
18. Thornburg International Value Fund (proceeds from sale of asset)	A	Distribution								
19. Blackrock Equity Dividend Fund	D	Dividend								
20. Loomis Sayles Strategic Income Fund	A	Dividend								
21. T Rowe Price Virginia Tax Free Bond Fund	A	Dividend								
22. Brokerage Account #2										
23. Bank of America NA RASP	A	Interest	K	T						
24. Eaton Vance Floating - EIBLX	A	Dividend	J	T						
25. Kayne Anderson MLP - KYN		None	J	T						
26. Oppenheimer Developing - ODVYX		None	J	T						
27. Oppenheimer International - OIGYX		None	J	T						
28. Prudential Short Term - PIFZX	B	Dividend	K	T						
29. T Rowe Price Small CAP		None	J	T						
30. Vanguard Value ETF - VTV	A	Dividend	K	T						
31. Vanguard Growth ETF - VUG		None	K	T						
32. Vanguard Dividend Appreciation ETF - VIG	B	Dividend	L	T						
33. Vanguard Intermediate Term Bond ETF - BIV	B	Dividend	K	T						
34. Vanguard Short Term Bond - BSV	A	Dividend	K	T						

1. Income Gain Codes: A = \$1,000 or less; B = \$1,001 - \$2,500; C = \$2,501 - \$5,000; D = \$5,001 - \$15,000; E = \$15,001 - \$50,000; F = \$50,001 - \$100,000; G = \$100,001 - \$1,000,000; H1 = \$1,000,001 - \$5,000,000; H2 = More than \$5,000,000; J = \$15,000 or less; K = \$15,001 - \$50,000; L = \$50,001 - \$100,000; M = \$100,001 - \$250,000; N = \$250,001 - \$500,000; O = \$500,001 - \$1,000,000; P1 = \$1,000,001 - \$5,000,000; P2 = \$5,000,001 - \$25,000,000; P3 = \$25,000,001 - \$50,000,000; P4 = More than \$50,000,000; Q = Appraisal; R = Cost (Real Estate Only); S = Assessment; T = Cash Market; U = Book Value; V = Other; W = Estimated.



**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting Dillon, Elizabeth K.	Date of Report 09/26/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "X" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period				D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)		
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)		
35. JP Morgan Strategic Income Opp Fund - JSOSX	A	Dividend									
36. Eaton Vance Floating Rate Fund CL I - EIBLX	A	Dividend									
37. Mainstay Large Cap Growth Fund	B	Dividend									
38. Blackrock Equity Dividend Fund	A	Dividend									
39. MFS Emerging Markets Debt Fund	A	Dividend									
40. Loomis Sayles Investment Grade Bond Fund	A	Dividend									
41. Brokerage Account #3											
42. Bank of America NA RASP	A	Interest	J	T							
43. Eaton Vance Floating Rate Fund CL I - EIBLX		None	J	T							
44. Kayne Anderson MLP - KYN	A	Dividend	J	T							
45. Oppenheimer Developing Markets FD CL Y - ODVYX	D	Distribution	J	T							
46. Oppenheimer International Growth Fund CL I - OIGYX		None	J	T							
47. PIMCO Income Fund CL P - PONPX		None	J	T							
48. Prudential Short Term Corporate Bond Fund Inc - PIFZX	A	Dividend	J	T							
49. T Rowe Price Small CAP Value Fund - PRSVX	A	Dividend	J	T							
50. Vanguard Value ETF - VTV	A	Dividend	K	T							
51. Vanguard Growth ETF - VUG		None	K	T							

1. Income Gain Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000; F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H=\$1,000,001 - \$5,000,000; I=\$5,000,001 - \$10,000,000; J=\$10,000,001 - \$50,000,000; K=\$50,000,001 - \$1,000,000,000; L=\$1,000,001 - \$5,000,000; M=\$5,000,001 - \$25,000,000; N=\$25,000,001 - \$50,000,000; O=\$50,000,001 - \$1,000,000,000; P=\$1,000,001 - \$5,000,000; Q=\$5,000,001 - \$25,000,000; R=\$25,000,001 - \$50,000,000; S=Assessment; T=Cash Merks; U=Book Value; V=Other; W=Estimated

2. Value Codes: J=\$15,000 or less; N=\$250,001 - \$500,000; Q=Appraisal; R=Cost (Real Estate Only); S=Assessment; T=Cash Merks; U=Book Value; V=Other; W=Estimated

3. Value Method Codes: Q=Appraisal; R=Cost (Real Estate Only); S=Assessment; T=Cash Merks; U=Book Value; V=Other; W=Estimated

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<b>Name of Person Reporting</b> Dillon, Elizabeth K.	<b>Date of Report</b> 09/26/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "00" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)	
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)	
52. Vanguard Dividend Appreciation ETF - VIG	A	Dividend	K	T						
53. Vanguard Intermediate Term Bond ETF - BIV	A	Dividend	J	T						
54. Vanguard Short Term Bond - BSV		None	J	T						
55. MFS Emerging Markets Debt Fund	A	Dividend								
56. Loomis Sayles Investment Grade Bond Fund	A	Dividend								
57. Blackrock Equity Dividend Fund	A	Dividend								
58. Mainstay Large Cap Growth Fund	A	Dividend								
59. Brokerage Account #4										
60. Merrill Lynch Bank Deposit Program	A	Interest	J	T						
61. Wells Fargo cash accounts	A	Interest	L	T						
62. IRA Account #1										
63. OneBeacon Company Stock Fund	C	Dividend	K	T						
64. Vanguard Target Retirement 2025	C	Dividend	M	T						
65. IRA Account #2										
66. The Growth Fund of America - AGTHX	A	Dividend	N	T						
67. John Hancock Universal Life		None	L	T						
68. US Savings Bonds Series EE		None	J	T						

1. Income Gain Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000  
 (See Columns B1 and D4) F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H1=\$1,000,001 - \$5,000,000; H2=More than \$5,000,000  
 2. Value Codes: J=\$15,000 or less; K=\$15,001 - \$50,000; L=\$50,001 - \$100,000; M=\$100,001 - \$250,000  
 (See Columns C1 and D3) N=\$250,001 - \$500,000; O=\$500,001 - \$1,000,000; P1=\$1,000,001 - \$5,000,000; P2=\$5,000,001 - \$25,000,000  
 3. Value Method Codes: Q=Appraisal; R=Cost (Real Estate Only); S=Assessment; T=Cash Market  
 (See Column C2) U=Book Value; V=Other; W=Estimated

**FINANCIAL DISCLOSURE REPORT**  
Page 8 of 10

<b>Name of Person Reporting</b> Dillon, Elizabeth K.	<b>Date of Report</b> 09/26/2014
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**VII. INVESTMENTS and TRUSTS** -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-68 of filing instructions.)

NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "X" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period			D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)	
	69. US Savings Bonds Series E		None	J	T					
70. Blueacre, LLC		None	J	U						
71. Guynn & Dillon, PC (1/3 ownership interest)		None	K	U						

- 1. Income Gain Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000; F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H=\$1,000,001 - \$5,000,000; I=\$5,000,001 - \$25,000,000; J=\$25,000,001 - \$50,000,000; K=\$50,000,001 - \$250,000,000; L=\$250,000,001 - \$500,000,000; M=\$500,000,001 - \$1,000,000,000; N=\$1,000,000,001 - \$5,000,000,000; O=\$5,000,000,001 - \$25,000,000,000; P=\$25,000,000,001 - \$50,000,000,000; Q=Appraisal; R=Cost (Real Estate Only); S=Assessment; T=Cash Market; U=Book Value; V=Other; W=Estimated
- 2. Value Codes: A=\$1,000 or less; B=\$1,001 - \$2,500; C=\$2,501 - \$5,000; D=\$5,001 - \$15,000; E=\$15,001 - \$50,000; F=\$50,001 - \$100,000; G=\$100,001 - \$1,000,000; H=\$1,000,001 - \$5,000,000; I=\$5,000,001 - \$25,000,000; J=\$25,000,001 - \$50,000,000; K=\$50,000,001 - \$250,000,000; L=\$250,000,001 - \$500,000,000; M=\$500,000,001 - \$1,000,000,000; N=\$1,000,000,001 - \$5,000,000,000; O=\$5,000,000,001 - \$25,000,000,000; P=\$25,000,000,001 - \$50,000,000,000; Q=Appraisal; R=Cost (Real Estate Only); S=Assessment; T=Cash Market; U=Book Value; V=Other; W=Estimated
- 3. Value Method Codes: Q=Appraisal; R=Cost (Real Estate Only); S=Assessment; T=Cash Market; U=Book Value; V=Other; W=Estimated

**FINANCIAL DISCLOSURE REPORT**  
Page 9 of 10

Name of Person Reporting	Date of Report
Dillon, Elizabeth K.	09/26/2014

**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*

**FINANCIAL DISCLOSURE REPORT**  
Page 10 of 10

Name of Person Reporting	Date of Report
Dillon, Elizabeth K.	09/26/2014

**IX. CERTIFICATION.**

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/ Elizabeth K. Dillon*

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, D.C. 20544

## FINANCIAL STATEMENT

## NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		66	638	Notes payable to banks-secured (auto)			
U.S. Government securities - see schedule		1	925	Notes payable to banks-unsecured			
Listed securities - see schedule	1	039	424	Notes payable to relatives			
Unlisted securities - see schedule		44	213	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable - personal residence		43	640
Real estate owned-add schedule		315	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		60	000				
Cash value-life insurance		42	693				
Other assets itemize:							
				Total liabilities		43	640
				Net Worth	1	526	253
Total Assets	1	569	893	Total liabilities and net worth	1	569	893
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor		778	275	Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

**FINANCIAL STATEMENT**  
NET WORTH SCHEDULES

<u>U.S. Government Securities</u>	
U.S Savings Bonds Series EE	\$ 1,900
U.S Savings Bonds Series E	25
Total U.S. Government Securities	<u>\$ 1,925</u>

<u>Listed Securities</u>	
The Growth Fund of America	\$ 261,100
Eaton Vance Floating Rate Fund	11,611
Bank of America N.A. RASP	378
Franklin High Yield Tax-Free Income Fund	3276
Kayne Anderson MLP Investment Co.	14,397
Loomis Sayles Strategic Income Fund	4245
Loomis Sayles Bond FD Instl CL	12,410
MainStay Large Cap Growth Fund	15300
Market Vectors Intermediate Municipal Index ETF	10,628
Merrill Lynch Bank Deposit Program	5283
OneBeacon Co. Stock Fund	48,699
Oppenheimer Developing Markets Fund	9328
Oppenheimer International Growth Fund	28,159
PIMCO Income Fund	20,647
Prudential Short-Term Corporate Bond Fund	32,132
SPDR Nuveen Barclays Municipal Bond ETF	4,607
T. Rowe Price Small-Cap Value Fund	21,612
T. Rowe Price Virginia Tax-Free Bond Fund	9,168
Vanguard Dividend Appreciation ETF	112,842
Vanguard Growth ETF	64,268
Vanguard Intermediate-Term Bond ETF	52,784
Vanguard Short Term Bond ETF	26,279
Vanguard Target Retirement 2025 Fund	191,799
Vanguard Value ETF	78,472
Total Listed Securities	<u>1,039,424</u>

<u>Unlisted Securities</u>	
Blueacre, LLC	\$ 10,424
Gynn & Dillon, PC	33,789
Total Unlisted Securities	<u>\$ 44,213</u>

866

<u>Real Estate Owned</u>	
Personal residence	\$ 300,000
Timeshare	<u>15,000</u>
Total Real Estate Owned	\$ 315,000

<u>Real Estate Mortgages Payable</u>	
Personal residence mortgage	\$ 33,558
Personal residence home equity line of credit	<u>10,081</u>
Total Real Estate Mortgages Payable	\$ 44,609



AFFIDAVIT

I, Elizabeth K. Dillon, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

9/22/2014  
(DATE)

Elizabeth K. Dillon  
(NAME)

Miriam Laxer #253860  
(NOTARY)  
Subscribed, sworn + acknowledged  
this 22<sup>nd</sup> day of September, 2014.  
Comm. Exp. 2/28/2017

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Michael Patrick Botticelli

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

Director, Office of National Drug Control Policy

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.

**Work Address**

Office of National Drug Control Policy  
750 17<sup>th</sup> Street NW  
Washington, DC 20503

**Home Address**

Washington, DC

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

January 2, 1958  
Troy, NY

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.

Cornell University  
Ithaca, NY  
September 1981-82  
Non-degree Coursework

St. Lawrence University  
Canton, NY  
September 1980 – May 1981  
Masters in Education

Siena College  
Loudonville, NY  
September 1976 – May 1980  
Bachelors of Arts

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.

Acting Director  
Office of National Drug Control Policy  
March 2014 – present

Deputy Director  
Office of National Drug Control Policy  
November 2012 – March 2014

Senior Associate  
Altarum Institute  
August 2012 – November 2012

Director  
Bureau of Substance Abuse Services  
Massachusetts Department of Public Health  
August 2003 – July 2012

Special Assistant to the Commissioner  
Massachusetts Department of Public Health  
February 2003 – August 2003

Chief of Staff  
Massachusetts Department of Public Health  
May 2000 – February 2003

Assistant Director, Policy and Planning  
HIV/AIDS Bureau  
Massachusetts Department of Public Health  
July 1996 – May 2000

Contract Manager  
HIV/AIDS Bureau  
Massachusetts Department of Public Health  
August 1995 – July 1996

Program Coordinator  
Bureau of Substance Abuse Services  
Massachusetts Department of Public Health  
February 1994 – August 1995

Various part-time positions, including Supervisor  
Pottery Barn  
March 1993 – May 2000 (est)

Community Relations Representative  
Brookside Hospital  
August 1992 – February 1993

Community Relations Representative  
HighPoint Treatment Center  
March 1991 – August 1992

Assistant Director of Residence Life  
Brandeis University  
August 1985 – March 1991

Assistant Director of Housing  
Roger Williams University  
August 1983 – August 1985

Residence Hall Director  
Cornell University  
August 1981 – August 1983

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 and was not required to register with the Selective Service.

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.

First Recipient of Annual Ramstad/Kennedy National Award for Outstanding Leadership in Promoting Addiction Recovery, August 2008.

Commonwealth Citation for Outstanding Performance. MA Executive Office of Health and Human Services, October 2005 and November 2009

First Recipient of the Massachusetts Consumer Advisory Board Annual Recognition Award, May 2008

Hector Reyes Award from the Latin American Health Alliance in Support of Culturally Sensitive Care, May 2010

President's Award, National Association of State Alcohol and Drug Abuse Directors, June 2010

National Treatment Network Champion's Award, National Association of State Alcohol and Drug Abuse Directors, June 2011

Human Needs Service Award, Massachusetts Nurses Association, July 2011

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.

I am not an attorney.

**10. Bar and Court Admission:**

I am not an attorney.

- 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.
- 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.

**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.

National Association of Student Personnel Administrators  
1982 - 1992 (est)

American College and University Housing Officers  
1982 - 1992 (est)

Arlington Street Church  
1990 - 1993 (est)

National Association of State Alcohol and Drug Abuse Directors  
2003 - 2012, Secretary, Board of Directors

American Public Health Association  
2008 - 2012

National Action Alliance for Suicide Prevention  
2010 - 2012, Executive Committee

USDHHS Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, National Advisory Council  
2010 - 2012

- b. 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.

None

**12. Published Writings and Public Statements:**

I have done my best to identify all published writings and public statements applicable to Question 12 (a.) - (e.), including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other items I have been unable to identify, find, or remember. I have located the following as listed below.

- 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.

See Attached

- 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.

See Attached

- 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.

See Attached

- 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.

See Attached

- 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.

See Attached

13. **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.

Deputy Director  
Office of National Drug Control Policy  
November 2012 – March 2014  
Appointed by President Barack Obama

- 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.

None

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

I am not an attorney.

- 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;
  - ii. whether you practiced alone, and if so, the addresses and dates;
  - 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.
  - 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.
- b. Describe:
- i. the general character of your law practice and indicate by date when its character has changed over the years.
  - ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.
- 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.

- i. Indicate the percentage of your practice in:
    - 1. federal courts;
    - 2. state courts of record;
    - 3. other courts;
    - 4. administrative agencies
  - ii. Indicate the percentage of your practice in:
    - 1. civil proceedings;
    - 2. criminal proceedings.
  - 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. What percentage of these trials were:
      - 1. jury;
      - 2. non-jury.
  - 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.
15. **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:

I am not an attorney.

a. References

- 1. R. Gil Kerlikowske  
Commissioner  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229  
(202) 368-8405
- 2. Howard Koh, MD, MPH  
Professor of the Practice of Public Health Leadership  
Harvard School of Public Health  
677 Huntington Avenue  
Boston, MA 02115  
(617) 495-1000
- 3. Ambassador William Brownfield  
Assistant Secretary of State  
Bureau of International Narcotics and Law  
Enforcement Affairs



U.S. Department of State  
2201 C Street, NW  
Washington, DC 20520  
(202) 647-8464

4. Ambassador Paul Simons  
Executive Secretary  
Inter-American Drug Abuse Control Commission (CICAD)  
Organization of American States  
17<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20006  
(202) 370-5069
5. John Aucribach  
Distinguished Professor of Practice and Director  
Institute on Urban Health Research  
Northeastern University  
360 Huntington Avenue  
Boston, MA 02115  
(617) 373-5668
6. Robert Morrison  
Executive Director  
National Association of State Alcohol and Drug Abuse Directors  
1025 Connecticut Avenue, NW  
Suite 605  
Washington, DC 20006  
(202) 293-0090 x106

16. **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.)

While I am not an attorney, as a former Board Member of the National Association of State Alcohol and Drug Abuse Directors (NASADAD), I have testified before Congress and performed advocacy activities on Capitol Hill on behalf of the organization. I have never been a registered lobbyist.

17. **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.

None

18. **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.

Commonwealth of Massachusetts Deferred Compensation Plan – employer sponsored retirement plan  
\$155,368  
Payment Upon Retirement

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

I do not intend to pursue outside employment.

20. **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 schedule

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

See attached Net Worth Statement.

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors 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.

In connection with the nomination process, I have consulted with the Office of Governmental Ethics and the Office of National Drug Control Policy's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with ONDCP's designated agency ethics official and that has been provided to the Committee. I am unaware of any other conflicts of interest.

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

In connection with the nomination process, I have consulted with the Office of Governmental Ethics and the Office of National Drug Control Policy's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with ONDCP's designated agency ethics official and that has been provided to the Committee. I am unaware of any other conflicts of interest.

23. **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. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

While I am not a lawyer, I have done considerable volunteer work. Over the years, I have volunteered on a helpline to assist callers with questions regarding substance abuse, HIV and other related health issues. I have also provided guidance and mentoring for those in early recovery and their families.



**EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF NATIONAL DRUG CONTROL POLICY**

Washington, D.C. 20503

**Statement of Michael P. Botticelli,  
Nominee for  
Director of National Drug Control Policy**

Committee on the Judiciary  
United States Senate  
Thursday, November 13, 2014

Chairwoman Hirono and distinguished Members of the Committee, thank you for inviting me to discuss my nomination to be Director of National Drug Control Policy. I am honored that President Obama has nominated me for this position, and it is a privilege to be considered by this Committee. I want to thank the President for providing me this opportunity to serve the Nation.

I also want to thank the Members of this Committee and your staffs for meeting with me and for sharing your views since I began working for this Administration, first as Deputy Director in November 2012 then as Acting Director since March. If confirmed, I look forward to continuing our work to reduce substance use disorders and their consequences in America.

And I am particularly grateful to my family and friends for their steadfast support. My husband, David Wells, is in the audience today, and I would not be here today without his ongoing love and encouragement.

As I've said when I've met with constituent groups across the country, I am humbled at the opportunity I have been given. Twenty-six years ago this month, I began my own recovery journey. I never imagined at that time that I would find myself with the chance to lead an office within the White House. My own personal story is a testament to how recovery can transform lives. For nearly two decades, I worked for the Massachusetts Department of Public Health, culminating in nine years as the Director of the Bureau of Substance Abuse Services, a position I left to join the Administration.

As Director of National Drug Control Policy, I will continue to advance the objectives set out in the *National Drug Control Strategy*, which outlines the Administration's efforts to reduce illicit drug use, manufacturing and trafficking, drug-related crime and violence, and drug-related health consequences. We are doing this through a balanced approach of public health programs, law enforcement, and international partnerships. The *Strategy* is rooted in the science of drug addiction as a brain disease — one that can be prevented and treated, and from which people can recover.

This drug policy emphasizes four main activity areas: prevention, treatment, criminal justice reform, and recovery. Prevention encompasses both activities to reduce the demand for drugs in our communities as well as to reduce the flow of drugs into the United States. We are advancing a 21st century approach to treatment of substance use disorders as a chronic disease, including the use of FDA-approved medications. Our criminal justice efforts emphasize the need to address substance use disorders as a disease within the criminal justice system and supporting evidence-based alternatives to incarceration. Lastly, we are working to remove the stigma and other barriers in education, employment and housing that too often hold back people from successful recovery.

In addition to these areas, I will continue, if confirmed, to address the public health epidemic of opioid drug use, including prescription painkillers and heroin. Reducing and preventing overdose deaths is also a critical focus of our efforts.

I will continue to ensure that our efforts are coordinated among the various federal agencies tasked with executing the *Strategy* so that we are maximizing our efforts, monitoring our performance to

meet our goals, and continue to foster strong relationships with key state and local, criminal justice, and public health partners.

Madam Chairwoman, thank you again for the invitation to speak with you today. I hope that we will be able to continue to work together to improve the health and lives of the American people. I will be happy to answer any questions.

Senate Committee on the Judiciary  
Nominations Hearing  
November 13, 2014

United States Senator Mazie Hirono  
Opening Statement

Good morning, everyone.

I am pleased to call this nominations hearing of the Senate Committee on the Judiciary to order.

I'd like to welcome each of our nominees, their families, and friends to the United States Senate, and congratulate them on their nominations. I would also like to welcome my colleague Senator Grassley, the Ranking Member of this Committee. I know a number of my colleagues are here to introduce these nominees, and I will keep my opening statement brief.

There are currently 64 district and circuit vacancies in the Federal Judiciary, and nearly a third of these are judicial emergencies. Indeed, all three of our judicial nominees will be filling judicial emergency districts. I applaud the efforts of my colleagues in working to fill these vacancies, and look forward to hearing more from each of our judicial candidates.

Our federal district and appellate courts hear tens of thousands of cases per year ranging from criminal prosecutions to complex environmental and consumer protection litigation. But in order for Americans to receive swift access to justice, these vacancies must be filled.



The number of criminal cases has increased by 70 percent in the past decade. Because federal judges are required to give priority to criminal cases over civil ones, judges are forced to delay civil cases, often for years. This means long delays for American individuals and businesses seeking justice.

We also have a nominee to head the Office of National Drug Control Policy, Mr. Michael Botticelli. I look forward to hearing from Mr. Botticelli on how we can continue to effectively curb the widespread abuse of prescription medication, and what role ONDCP can play in helping to alleviate the current overcrowding in our prison systems.

This hearing is an important step in the process of working to confirm judges and administrative positions in an expeditious manner, and ensuring that the federal government is able to do the work the American people require of us.

**Senator Grassley  
Questions for the Record**

**Joan Azrack,  
Nominee, U.S. District Judge for the Eastern District of New York**

1. Throughout your twenty plus year term as a magistrate judge, you have obviously had some of your decisions reversed. Can you share with the Committee some specific things you have learned through specific cases that will assist you as a district court judge, if confirmed?
2. What is the most important attribute of a judge, and do you possess it?
3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
4. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
5. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
6. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
7. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
8. In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community", in determining the meaning of the Constitution? Please explain.
9. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?
10. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
11. If confirmed, how do you intend to manage your caseload?

12. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?
13. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.
14. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
15. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.
  - a. In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>
    - i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.
    - ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?
    - iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
    - iv. Are you committed to upholding this precedent?
  - b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>
    - i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.

- ii. Will you commit to give this portion of the Court's opinion full force and effect?
  - c. Justice Kennedy also wrote, "The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens."<sup>3</sup>
    - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court's opinion full force and effect?
  - d. Justice Kennedy wrote, "The definition of marriage is the foundation of the State's broader authority to regulate the subject of domestic relations with respect to the '[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.'"<sup>4</sup>
    - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court's opinion full force and effect?
  - e. Justice Kennedy wrote, "The significance of state responsibilities for the definition and regulation of marriage dates to the Nation's beginning; for 'when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.'"<sup>5</sup>
    - i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
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16. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: "To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator's judicial selection committees".

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

<sup>5</sup> *Id.* (internal citations omitted).

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.
  - b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
17. Please describe with particularity the process by which these questions were answered.
  18. Do these answers reflect your true and personal views?

**Senator Grassley  
Questions for the Record**

**Loretta Biggs,  
Nominee, U.S. District Judge for the Middle District of North Carolina**

1. What is the most important attribute of a judge, and do you possess it?
2. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
3. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
4. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
5. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
6. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
7. In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community," in determining the meaning of the Constitution? Please explain.
8. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?
9. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
10. If confirmed, how do you intend to manage your caseload?
11. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?

12. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.
13. If confirmed, how do you believe your experience as a judge will help you as a federal district judge?
14. What do you anticipate will be the greatest challenge transitioning from a state court's docket to a federal district court's docket?
15. President Obama said that deciding the "truly difficult" cases requires applying "one's deepest values, one's core concerns, one's broader perspectives on how the world works, and the depth and breadth of one's empathy . . . the critical ingredient is supplied by what is in the judge's heart." Do you agree with this statement?
16. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.
  - a. In the penultimate sentence of the Court's opinion, Justice Kennedy wrote, "This opinion and its holding are confined to those lawful marriages."<sup>1</sup>
    - i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.
    - ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes "lawful marriages"?
    - iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?
    - iv. Are you committed to upholding this precedent?
  - b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, "By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States."<sup>2</sup>

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

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- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
  - c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>
    - i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
    - ii. Will you commit to give this portion of the Court’s opinion full force and effect?
  - d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>
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  - e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>
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17. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

<sup>5</sup> *Id.* (internal citations omitted).



of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator's judicial selection committees".

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.
  - b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
18. Please describe with particularity the process by which these questions were answered.
  19. Do these answers reflect your true and personal views?

**Senator Grassley  
Questions for the Record**

**Elizabeth Dillon,  
Nominee, U.S. District Judge for the Western District of Virginia**

1. It does not appear that you have criminal litigation experience. As a federal district court judge, you will preside over both civil and criminal matters. What steps have you taken or will you take to familiarize yourself with criminal law?
2. What is the most important attribute of a judge, and do you possess it?
3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?
4. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?
5. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?
6. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?
7. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?
8. In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community", in determining the meaning of the Constitution? Please explain.
9. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?
10. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?
11. If confirmed, how do you intend to manage your caseload?

12. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?
13. You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?
14. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?
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    - iv. Are you committed to upholding this precedent?
  - b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>
    - i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

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<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?
- c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>
- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.
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- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.
  - b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.
17. Please describe with particularity the process by which these questions were answered.
  18. Do these answers reflect your true and personal views?

**Michael Botticelli Nomination Hearing****Questions for the Record from Ranking Member Charles E. Grassley****1. Obama Administration Mixed Messages on Marijuana**

Earlier this year President Obama stated he thought recreational use of marijuana was merely a “bad habit” that was no more dangerous than consuming alcohol. He also indicated that he thought that it was “important” for the legalization of recreational marijuana under state law in Colorado and Washington to “go forward.” Attorney General Holder has also recently stated that he’s “cautiously optimistic” about the legalization of recreational marijuana in those states. Finally, the President recently installed an advocate for legalization of recreational marijuana, Vanita Gupta, as acting Assistant Attorney General for Civil Rights.

- a. Do you think these comments and actions by prominent figures such as the President and the Attorney General have contributed to the recent well-documented reduction in the perception of risk related to recreational marijuana use among young people?
- b. If confirmed as head of ONDCP, what specific steps will you take to help reverse this reduction in the perception of risk?

**2. Cannabidiol**

Last year, the Food and Drug Administration (FDA) approved clinical trials for Epidiolex, a highly-concentrated form of cannabidiol (CBD), for the treatment of rare forms of epilepsy. As you know, CBD is a non-psychoactive component of marijuana. Many people throughout the country and in Iowa, especially young children, are afflicted with severe cases of intractable epilepsy that anecdotal evidence suggests may be effectively treated with CBD. Research related to the potential medical benefits and risks associated with CBD could help determine whether this is so.

- a. Do you support research into the potential benefits and risks associated with the administration of CBD to treat patients such as these?
- b. How can such research be carried out under the current legal and regulatory framework for approving drugs in the United States?
- c. Are there any legal or regulatory barriers to CBD research that you believe could be responsibly eliminated or changed in order to facilitate this research?

### 3. Diversion of Marijuana from Colorado to Iowa

The Cole Memorandum of August 2013 suggests that the Department of Justice will not seek to enforce the Controlled Substances Act in states that legalize recreational marijuana, except to enforce certain federal priorities, so long as those states implement effective regulatory schemes. Those priorities include the diversion of marijuana from Colorado to other states.

But in 2010, Colorado was the source state for 10% of all marijuana interdicted in Iowa. That number grew to 25% in 2011, and to 36% in 2012. This is all *before* legalization of recreational use there. In the words of Colorado's Attorney General, the state is becoming "a significant exporter of marijuana to the rest of the country."

- a. What steps can the Administration take to help protect Iowa from the increasing diversion of marijuana from Colorado to it and other states?
- b. If confirmed as head of ONDCP, what specific steps will you take to do so?

### 4. U.N. Conventions on Narcotic Drugs

As you know, the United States is a signatory of the U.N. Conventions on Narcotic Drugs, which limit the production, distribution, possession and use of narcotics, including marijuana, to scientific and medical purposes. However, in a March 2014 report, the International Narcotics Control Board concluded that the laws in Colorado and Washington legalizing recreational marijuana use were "not in conformity" with these treaties. Moreover, in October 2014, Ambassador William Brownfield, the Assistant Secretary of State for the Bureau of International Narcotics Control and Law Enforcement Affairs, outlined what he described as the "four pillars" of U.S. international drug policy. These pillars included advocating for a "flexible interpretation of the U.N. Conventions" and "tolerating different national drug policies."<sup>1</sup>

- a. Do you believe the United States is currently in compliance with its treaty obligations outlined in the U.N. Conventions, despite the legalization of marijuana under the laws of various states? Why or why not?
- b. What do you believe will be the impact of the State Department's policy, as set forth in Ambassador Brownfield's remarks, on U.S. efforts to continue as an international leader on drug control issues?

<sup>1</sup> The "four pillars" of U.S. international drug policy were described as: (1) respecting the existing U.N. Conventions; (2) accepting flexible interpretation of the U.N. Conventions; (3) tolerating different national drug policies; and (4) combating and resisting criminal organizations. See William R. Brownfield, Asst. Sec'y, Bureau of Int'l Narcotics and Law Enforcement Affairs, U.S. Dep't of State, Briefing on Trends in Global Drug Policy (Oct. 9, 2014) (transcript available at <http://fpc.state.gov/232813.htm>).

- c. If confirmed as Director of ONDCP, what specific steps will you take to ensure that the United States remains a leader on international drug control issues?

#### **5. Methamphetamine**

The number of methamphetamine laboratory incidents is at a seventeen-year low in Iowa, perhaps in part due to law enforcement tracking the sales of pseudoephedrine. However, the quantity of the drug itself being seized there is at a nine-year high. Much of this methamphetamine appears to be being trafficked into Iowa from Mexico. Indeed, in 2013, more than half of Iowa's drug related prison admissions were methamphetamine-related. Also in 2013, methamphetamine abuse constituted fifteen percent of all publicly-funded treatment entries, which is an all-time high percentage for Iowa.

- a. What more can the Administration do to prevent the trafficking of methamphetamine and other drugs coming from the southwest border into Iowa?
- b. If confirmed as Director of ONDCP, what specific steps will you take to address this problem?

#### **6. Synthetic Drugs**

As you know, synthetic drugs remain a vexing problem for both law enforcement and public health officials. One aspect of the challenge they pose is that many of these drugs are manufactured in China and then imported into the United States.

- a. What more can the Administration do to prevent importation of synthetic drugs, either through engaging the Chinese government or to interdict them at the border?
- b. If confirmed as Director of ONDCP, what specific steps will you take to address this problem?



Questions for the Record  
Senator Ted Cruz

Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.

Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?

If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?

Explain whether you agree that "State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power." *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).

Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?

What are the judicially enforceable limits on the President's ability to issue executive orders or executive actions?

When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?

When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?

Do you "expect that [15] years from now, the use of racial preferences will no longer be necessary" in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).

**Nominations Hearing**

**November 13, 2014**

**Questions for the Record from Senator Dianne Feinstein**

**for**

**Michael Botticelli, Acting Director, Office of National Drug Control Policy**

1. As you know, despite Congressional action two years ago that outlawed several synthetic drugs, manufacturers and distributors have managed to stay one step ahead of the law by slightly altering the chemical structures that produce “controlled substance analogues,” which mimic the psychoactive effects of drugs like ecstasy, cocaine, PCP, and LSD. These slight changes have enabled manufacturers and distributors to avoid prosecution and have led to overdoses and deaths, primarily amongst our nation’s youth.
  - *My staff has repeatedly heard from the Drug Enforcement Administration, Department of Homeland Security and others that a more efficient, permanent scheduling process is crucial to staying ahead of synthetic drug manufacturers. In your view, would legislation that enables synthetic substances to be scheduled more expeditiously help address the import, manufacture, and distribution of these dangerous synthetic drugs?*
  
2. In 2012, Colorado and Washington legalized the production, distribution, possession, and use of marijuana for recreational purposes. Recently, Oregon and Alaska approved similar initiatives, while the District of Columbia approved the possession, use, and production of marijuana.
  - *Does ONDCP believe that these laws are in conflict with the United States’ obligations under the U.N. Conventions, which require state parties to limit the production, distribution, possession, and use of marijuana to scientific and medical purposes?*
  
  - *The State Department recently called for a flexible interpretation of the U.N. Conventions. Does ONDCP support a flexible interpretation of the U.N. Conventions? If so, what does ONDCP’s interpretation look like?*

3. In August 2013, the Department of Justice issued “the Cole Memorandum” which delineated eight priority enforcement areas related to marijuana. This memo also emphasized that states must implement “strong and effective regulatory and enforcement systems” to ensure that their laws legalizing marijuana “do not undermine federal enforcement priorities.”
  - *Is ONDCP working with its federal counterparts to ensure that states have implemented strong and effective regulatory and enforcement systems? If so, what metrics are being used to make this determination? If not, why not?*
  - *It is my understanding that data related to the public health and criminal justice impacts of marijuana legalization in Colorado and Washington State can be culled from a number of existing sources. As the federal agency responsible for national drug control, is ONDCP working with its counterparts to create a singular document that will provide a complete picture of the public health and criminal justice impacts of the laws in these states? If not, why not?*
4. As Chairman of the Senate Caucus on International Narcotics Control, it is clear to me that the United States needs more effective drug treatment programs. However, experts have stated said that only a fraction of the Americans who show signs of substance abuse get the treatment they need. One of the causes for this gap may be the 16 bed limit on treatment centers that accept Medicaid patients.
  - *Do you believe that the 16 bed limit for substance abuse treatment facilities that accept Medicaid patients should be lifted?*
  - *While this limit remains in place, is there a way to work administratively to ensure that more Americans who seek treatment receive it?*

Senate Committee on the Judiciary  
Nominations Hearing  
November 13, 2014

United States Senator Mazie Hirono

Questions for Mr. Michael Botticelli:

- 1) Mr. Botticelli, earlier this Congress this Committee looked at ways to alleviate the stress currently placed on our overburdened Bureau of Prisons. One issue we discussed was a reduction of mandatory minimum sentences for low-level, non-violent drug offenses. Do you have a position on reducing the mandatory minimums in these instances?
- 2) Mr. Botticelli, can you tell me a little more about the Office of National Drug Control Policy's prescription drug plan to reduce improper use of prescription drugs?

**Senator Grassley  
Questions for the Record**

**Responses of Joan Marie Azrack  
Nominee, U.S. District Judge for the Eastern District of New York**

- 1. Throughout your twenty plus year term as a magistrate judge, you have obviously had some of your decisions reversed. Can you share with the Committee some specific things you have learned through specific cases that will assist you as a district court judge, if confirmed?**

Response: During my 23-year tenure as a magistrate judge, I have done my best in every case to apply the governing law to the specific facts before me. When any decision of mine is reversed or not fully adopted, I closely scrutinize my decision and reflect on how the reviewing court's analysis and conclusions, as well as intervening changes in the law, may be relevant to future cases before me.

- 2. What is the most important attribute of a judge, and do you possess it?**

Response: I believe the most important attribute of a district judge is a commitment to the rule of law. The foundations underlying the rule of the law are fairness, impartiality, adherence to precedent, a focus on the specific facts before the court, and recognition of the limits of a district judge's authority under our Constitution and statutes. I believe that I have demonstrated a strong commitment to the rule of law throughout my 23-year tenure as a magistrate judge.

- 3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: An appropriate judicial temperament is critical to ensure that all parties, irrespective of the outcome of their case, leave the courthouse confident in the fairness and impartiality of our judicial system. A judge must be patient and respectful of all litigants so that they have a full opportunity to be heard and know that the judge approached their case with an open mind and fully considered their position. I believe that I have demonstrated this temperament throughout my time as a magistrate judge.

- 4. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: In my 23 years serving as a magistrate judge, I have faithfully followed all binding precedent, irrespective of any personal views. If confirmed, I will continue to do so.

5. **At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In deciding an issue of first impression, I would first consider the text of the constitutional or statutory provision at issue. If the text was clear and unambiguous, I would apply the plain meaning of the text. If, however, ambiguity existed, I would employ canons and tools of statutory interpretation endorsed by the Supreme Court and the Second Circuit. I would also seek guidance from Supreme Court and Second Circuit precedent regarding analogous provisions, and persuasive authority from other circuits and district courts.

6. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: I would apply binding precedent, irrespective of any personal views.

7. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Federal statutes are presumed to be constitutional. The only exception is if the statute exceeds congressional authority or violates a constitutional provision.

8. **In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: No.

9. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: My record as a magistrate judge is strong evidence that I have always grounded my decisions in precedent and the text of the law, irrespective of any political ideology or motivation. I will continue to uphold this commitment if I am confirmed as a district judge.

10. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: During my 23 years as a magistrate judge, I have treated all litigants with respect and impartiality, irrespective of any personal views. I will continue to uphold this standard if confirmed as a district judge.

**11. If confirmed, how do you intend to manage your caseload?**

Response: As a magistrate judge, I have experience managing a heavy caseload. I set firm, but reasonable, deadlines to ensure that cases proceed expeditiously to resolution. To monitor my cases, I hold status conferences and use the court's electronic case management tools. I strive to issue prompt rulings and I employ various methods to advance the cost-efficient disposition of cases, including encouraging and facilitating settlement. If confirmed, I will continue, where appropriate, to utilize these case management techniques and will work with magistrate judges to manage my docket.

**12. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Yes. Judges have a responsibility to control the pace and conduct of litigation. If confirmed, I will employ the case management techniques outlined in Question 11 above to control my docket.

**13. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.**

Response: Initially, I review the entire record, including all written submissions by the parties. I then research the applicable law, binding precedent from the Supreme Court and Second Circuit, and relevant persuasive authority. If I hold oral argument, I listen carefully and ask questions in order to fully understand the issues. When appropriate, I request additional submissions from the parties. After taking into consideration all submissions, argument, and applicable law, I try to issue prompt rulings that clearly and concisely explain the basis for my decision.

**14. President Obama said that deciding the "truly difficult" cases requires applying "one's deepest values, one's core concerns, one's broader perspectives on how the world works, and the depth and breadth of one's empathy . . . the critical ingredient is supplied by what is in the judge's heart." Do you agree with this statement?**

Response: I am not aware of the full context of this statement; however, I believe a judge must always decide cases in an impartial and fair manner, and in accordance with binding precedent. A decision should be based on the application of facts to applicable law, irrespective of any personal views.

**15. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.**

a. In the penultimate sentence of the Court's opinion, Justice Kennedy wrote, "This opinion and its holding are confined to those lawful marriages."<sup>1</sup>

i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.

Response: Yes.

ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes "lawful marriages"?

Response: My understanding is that when Justice Kennedy used the term "lawful marriages" he was referring to marriages that are deemed lawful under state law.

iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?

Response: Yes.

iv. Are you committed to upholding this precedent?

Response: Yes.

b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, "By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States."<sup>2</sup>

i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes.

ii. Will you commit to give this portion of the Court's opinion full force and effect?

Response: Yes. If confirmed, I will uphold all Supreme Court precedent, including *Windsor*.

<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

<sup>2</sup> *Id.* 2689-2690.



c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>

i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes.

ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes. If confirmed, I will uphold all Supreme Court precedent, including *Windsor*.

d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>

i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes.

ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes. If confirmed, I will uphold all Supreme Court precedent, including *Windsor*.

e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>

i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

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<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

<sup>5</sup> *Id.* (internal citations omitted).

Response: Yes.

- ii. **Will you commit to give this portion of the Court's opinion full force and effect?**

Response: Yes. If confirmed, I will uphold all Supreme Court precedent, including *Windsor*.

16. **According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: "To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator's judicial selection committees".**

- a. **Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: No.

- b. **Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

17. **Please describe with particularity the process by which these questions were answered.**

Response: On November 20, 2014, I received Questions for the Record from the Office of Legal Policy. After thoroughly reviewing the questions and drafting my answers, I submitted my responses to the Office of Legal Policy for review and then finalized my responses before submitting them to the Committee.

18. **Do these answers reflect your true and personal views?**

Response: Yes.

**Questions for the Record  
Senator Ted Cruz**

**Responses of Joan Marie Azrack  
Nominee, United States District Judge for the Eastern District of New York**

1. **Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice’s judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.**

Response: During my 23-year tenure as a magistrate judge, I have approached each case with an open mind, treated all litigants fairly and impartially, and promptly decided disputes by applying controlling law to the specific facts before me. I do not have sufficient knowledge of the judicial philosophies of the justices on the Warren, Burger and Rehnquist Courts to compare their philosophies to my own.

2. **Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e. original intent, original public meaning, or some other form)?**

Response: If confirmed and presented with a question of constitutional interpretation, I will follow controlling precedent and look to the original public meaning of the Constitution in accordance with such cases as *District of Columbia v. Heller*, 554 U.S. 570 (2008).

3. **If a decision is precedent today while you’re going through the confirmation process, under what circumstance would you overrule that precedent as a judge?**

Response: If confirmed, I will not overrule controlling precedent.

4. **Explain whether you agree that “State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power.” *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).**

Response: If confirmed, I will follow all controlling precedent, including *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528 (1985).

5. **Do you believe that Congress’ Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?**

Response: In *United States v. Lopez*, 514 U.S. 549 (1995), the Supreme Court identified three categories of activities that Congress may regulate under the Commerce Clause, including activities that substantially affect interstate commerce. Under this framework, the Supreme Court has struck down statutes that regulated certain types of non-economic activity. *United States v. Morrison*, 529 U.S. 598 (2000); *Lopez*, 514 U.S. 549. If confirmed, I will follow this, and other controlling precedent.

6. **What are the judicially enforceable limits on the President's ability to issue executive orders or executive actions?**

Response: In *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), the Supreme Court held that the President's ability to issue executive orders or take executive actions must be rooted in the Constitution or an act of Congress. If confirmed, I will follow that precedent.

7. **When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?**

Response: According to the Supreme Court, a right is "fundamental" for purposes of the substantive due process doctrine when it is "objectively, deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed." *Washington v. Glucksberg*, 521 U.S. 702, 720–21 (1997) (internal quotations omitted). If confirmed, I will follow that precedent.

8. **When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?**

Response: The Supreme Court has held that certain classifications, such as those based on race, alienage, national origin, gender, and illegitimacy are subject to heightened scrutiny. See *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1995). If confirmed, I will follow that precedent.

9. **Do you "expect that (15) years from now, the use of racial preferences will no longer be necessary" in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).**

Response: I do not have any expectations about the future necessity of racial preferences in public higher education. If confirmed, I will follow controlling precedent on this issue, including *Grutter v. Bollinger*, 539 U.S. 306 (2003), and *Fisher v. University of Texas at Austin*, 133 S. Ct. 2411 (2013).

**Senator Grassley  
Questions for the Record**

**Loretta Biggs,  
Nominee, U.S. District Judge for the Middle District of North Carolina**

**1. What is the most important attribute of a judge, and do you possess it?**

Response: While I believe there are a number of important attributes of a judge, during my nine years as a state district court and appellate court judge I came to believe that the most important attribute is integrity. Judicial integrity encompasses dedication to and reverence for the law and legal precedent, a commitment to provide full and fair hearings, courtesy and respect to all parties and their representatives, and a commitment to remain open-minded, fair and impartial in all aspects of decision making. I do believe that I continue to possess integrity.

**2. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: A judge should be patient but firm in the management of court proceedings; respectful to all who come before the court; and should project a calm, evenhanded, and deliberate approach to each case. Throughout my 35-year career, and specifically during my tenure as a state district court judge for a little more than seven years and appellate court judge for nearly two years, I believe I have met this standard. If confirmed, I commit to continue to do so.

**3. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: I am fully committed to following the precedents of the United States Supreme Court and those of the Fourth Circuit Court of Appeals and will faithfully give them full force and effect whether or not I personally disagree with such precedents. I followed precedents for nine years as a state district court and appellate court judge and can assure you that I will continue to follow precedent if I am confirmed to the federal bench.

**4. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: On a matter of first impression, if confirmed, I will first look to the plain language of the Constitution, relevant statutes or regulations to determine whether the language is clear and unambiguous on the issue before the court. If there is ambiguity, I would utilize the canons of statutory construction to help interpret the language. I would subsequently look to Supreme Court and Fourth Circuit precedents that may have addressed issues which are analogous to the question before the court and non-binding precedents from other federal circuit or district courts which might have interpreted the same or analogous issues for its persuasive authority.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: Even if I believe that the Supreme Court and the Fourth Circuit Court of Appeals have erred in rendering a decision, if confirmed, I will uphold the law as written by those courts as I am bound to do.

6. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Statutes enacted by Congress are presumed to be constitutional and the rules of statutory interpretation require that, if a reasonable interpretation can be given so as to avoid declaring a statute to be unconstitutional, this interpretation should be utilized. Only if the presumption is overcome and it is clear that the statute exceeds congressional authority or that the Constitution has been violated should the statute be declared unconstitutional.

7. **In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community," in determining the meaning of the Constitution? Please explain.**

Response: No, I do not believe it is proper to look to foreign law or the views of the world community in determining the meaning of the Constitution unless required to do so in limited circumstances by Supreme Court or Fourth Circuit precedent.

8. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: I faithfully pledge that, if confirmed, my decisions will be grounded in legal precedents and the text of the law and that I will not base any decision on political ideology or personal motivation. I demonstrated this commitment and reverence to precedent during my nine-year tenure on the state district court and appellate court.

9. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: I faithfully pledge that, if confirmed, I will put aside my personal views and will be fair to all who appear before me. I did so for nine years as a state district court and appellate court judge and I assure you that I would do so if I am confirmed to the federal bench.

**10. If confirmed, how do you intend to manage your caseload?**

Response: If confirmed, I will manage my caseload to affect a speedy, just, and expeditious resolution of the case as required by the Federal Rules and the Speedy Trial Act. I will utilize case management schedules and an internal monitoring system to develop and enforce firm, but reasonable, deadlines for motions, discovery and trial. I will utilize magistrate judges, where appropriate, to facilitate certain aspects of the case.

**11. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: I do believe that judges have the primary role in controlling the pace and conduct of litigation and, if confirmed, will utilize the management system described in Question 11 above to control my docket.

**12. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.**

Response: My decision making process while serving on the state district and appellate courts began with ensuring that I had a thorough understanding of the facts. As a state appellate court judge I read carefully the findings made by the trial court and all other parts of the record; as a state district court judge I listened carefully to the evidence presented and made my own findings where appropriate. After discerning the facts, I researched the applicable law. While I read and considered the briefs provided by the parties, additional research often needed to be done. Finally, I then fairly and impartially applied the law to the facts to reach my decision. If confirmed, research sources will include the Constitution, relevant statutes or regulations, and Supreme Court and Fourth Circuit precedents.

**13. If confirmed, how do you believe your experience as a judge will help you as a federal district judge?**

Response: My past experience as a judge will ease the transition if confirmed in that I have performed many of the tasks that as a federal district court judge I will be called on to perform. I have conducted hearings and trials, ruled on motions, managed caseloads, decided cases, sentenced individuals, and managed clerks, courtroom staff, and other personnel.

14. **What do you anticipate will be the greatest challenge transitioning from a state court's docket to a federal district court's docket?**

Response: I anticipate that the greatest challenge in transitioning from a state court docket to a federal court docket may be the complexity and breadth of the substantive areas of law that a federal judge is called upon to master and rule upon. However, during my 35-year legal career I have repeatedly had to master new areas of the law and I am confident I will do the same if I am confirmed to the federal bench.

15. **President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: I do not know the context in which the President made that statement; however, I believe that the judge must apply the law to the facts of each case, as I did during my nine tenure as a state district court and appellate court judge.

16. **Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.**

- a. **In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>**

- i. **Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.**

Response: Yes, I do believe that statement to be a part of the holding.

- ii. **What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?**

Response: The marriages to which Justice Kennedy refers are same sex marriages that have been recognized by an individual state as legal.

- iii. **Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?**

Response: Yes, that is my understanding.

<sup>1</sup> *United States v. Windsor*, 133 S.Ct. 2675 at 2696.



**iv. Are you committed to upholding this precedent?**

Response: Yes, if confirmed, I am committed to upholding the precedent to which you refer as well as all other precedents of the United States Supreme Court as well as those of the Fourth Circuit.

**b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>**

**i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes, this portion and all portions of the opinion are binding and entitled to full force and effect by the lower courts.

**ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes, if confirmed, I commit to give this portion of the Court’s opinion full force and effect, just as I am bound to give every Supreme Court precedent full force and effect.

**c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>**

**i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes, this portion and all portions of the opinion are binding and entitled to full force and effect by the lower courts.

**ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes, if confirmed, I commit to give this portion of the Court’s opinion full force and effect, just as I would be bound to give every Supreme Court precedent full force and effect.

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<sup>2</sup> *Id.* 2689-2690.

<sup>3</sup> *Id.* 2691.

d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>

i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes, this portion and all portions of the opinion are binding and entitled to full force and effect by the lower courts.

ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes, if confirmed, I commit to give this portion of the Court’s opinion full force and effect, just as I am bound to give every Supreme Court precedent full force and effect.

e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>

i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes, this portion and all portions of the opinion are binding and entitled to full force and effect by the lower courts.

ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes, if confirmed, I commit to give this portion of the Court’s opinion full force and effect, just as I am bound to give every Supreme Court precedent full force and effect.

17. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice

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<sup>4</sup> *Id.* (internal citations omitted).

<sup>5</sup> *Id.* (internal citations omitted).

**bias, increase the number of trial lawyers serving on individual Senator's judicial selection committees".**

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: No.

- b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

- 18. Please describe with particularity the process by which these questions were answered.**

Response: I received the questions via email from the Office of Legal Policy of the Department of Justice on November 20, 2014. I prepared my responses and then I briefly discussed the responses with the Office of Legal Policy. After making final minor edits I forwarded the responses to the Office of Legal Policy authorizing them to submit them to the Senate Judiciary Committee on my behalf.

- 19. Do these answers reflect your true and personal views?**

Response: Yes.

Questions for the Record  
Senator Ted Cruz

Loretta Copeland Biggs  
Nominee, U.S. District Judge for the Middle District of North Carolina

1. **Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.**

Response: I would describe my judicial philosophy as one of ensuring that all parties be given the opportunity to have a full and fair hearing of their claims. This requires a fair, impartial and knowledgeable judge, adherence to legal precedent, and court management which allows for a speedy resolution and allows the attorneys to try their case consistent with the rules of the court. I do not have sufficient knowledge of the judicial philosophies of the Justices of the Warren, Burger, or Rehnquist Courts to draw the analogy requested.

2. **Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?**

Response: If confirmed, I will adhere to Supreme Court and Fourth Circuit Court of Appeals precedent, and will use the methodologies utilized therein to interpret the Constitution. An example pertinent to this question is the case of *District of Columbia v. Heller*, 554 U.S. 570 (2008), in which the Supreme Court interpreted the Second Amendment based on its ordinary public meaning of words as they were understood at the time of ratification. I will adhere to this precedent and all other Supreme Court and Fourth Circuit precedents.

3. **If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?**

Response: If confirmed, I will follow the precedents of the Supreme Court and the Fourth Circuit and would not overrule such precedents.

4. **Explain whether you agree that "State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power." *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).**

Response: If confirmed, I will be bound by the Supreme Court's ruling in *Garcia* as well as more current rulings placing limitations on Congressional power, regardless of any personal opinions I may have.

5. **Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?**

Response: The Supreme Court has rendered a number of decisions defining the breadth of the Commerce Clause, particularly its scope and limitations as it pertains to non-economic activity. *See, e.g., United States v. Morrison*, 529 U.S. 598 (2000); and *United States v. Lopez*, 514 U.S. 549 (1995). If confirmed, I will abide by these precedents and all precedents of the Supreme Court and the Fourth Circuit.

6. **What are the judicially enforceable limits on the President's ability to issue executive orders or executive actions?**

Response: The President's authority to act must stem from either the Constitution or an act of Congress. *Medellin v. Texas*, 552 U.S. 491, 524 (2008). If confirmed, I will follow Supreme Court and Fourth Circuit precedents.

7. **When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?**

Response: The Supreme Court has stated that a right is "fundamental" for due process analysis when it is, "objectively, deeply rooted in this Nation's history and tradition," and "implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if sacrificed." *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) (internal citations and quotations omitted). If confirmed, I will follow the precedents of the Supreme Court and the Fourth Circuit.

8. **When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?**

Response: The Supreme Court has held that classifications based on race, alienage, national origin, gender, and illegitimacy, as well as classifications which burden a fundamental right, are subject to heightened scrutiny under the Equal Protection Clause. *See City of Cleburne, Tex. v. Cleburne Living, Ctr.*, 473 U.S. 432, 440 (1985). If confirmed, I will follow the precedents of the Supreme Court and the Fourth Circuit.

9. **Do you "expect that [15] years from now, the use of racial preferences will no longer be necessary" in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).**

Response: If confirmed, I will follow the precedent set by the Supreme Court in *Grutter* and *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013), as well as other Supreme Court and Fourth Circuit cases addressing the constitutionality of admissions policies based on particular classifications.

**Senator Chuck Grassley  
Questions for the Record**

**Elizabeth K. Dillon  
Nominee, U.S. District Judge for the Western District of Virginia**

- 1. It does not appear that you have criminal litigation experience. As a federal district court judge, you will preside over both civil and criminal matters. What steps have you taken or will you take to familiarize yourself with criminal law?**

Response: While I do not have criminal litigation experience, I have already begun studying federal criminal law and procedure so that, if I am fortunate enough to be confirmed, I will be prepared to preside over criminal proceedings. I have read cases regarding sentencing, reviewed sentencing factors and the sentencing guidelines, attended a continuing legal education seminar on federal criminal procedure, and observed criminal proceedings in the United States District Court for the Western District of Virginia. I plan to continue these educational efforts by observing more federal criminal proceedings, studying additional federal criminal law materials, and learning from the judges in the Western District of Virginia.

Additionally, I will draw upon my experience representing clients in civil cases that frequently involved constitutional issues that can arise in criminal cases. For example, I have experience representing clients in Section 1983 cases involving alleged Fourth Amendment violations. I have also represented clients in civil cases alleging malicious prosecution in underlying criminal proceedings, as well as cases involving *Brady* issues and criminal trial procedures. Moreover, I am well versed in the Federal Rules of Evidence, which apply to both civil and criminal cases.

- 2. What is the most important attribute of a judge, and do you possess it?**

Response: The most important attribute of a judge is to have the utmost respect for the tremendous responsibility of the position. A judge who recognizes and respects the responsibility of the position will respect the rule of law, the litigants, and the lawyers, and will serve with integrity, fairness, and impartiality. I have the utmost respect for the tremendous responsibility of the position and would be honored to serve should I be confirmed.

- 3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: A judge should be professional and show respect for the rule of law, the litigants and the lawyers who appear before him or her, and other judges and court personnel. A judge must be patient, listen carefully, and apply the law impartially and fairly. If confirmed, I can and will be such a judge.

4. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: If confirmed, I will follow faithfully, and adhere to, the precedents of the Supreme Court of the United States and the Fourth Circuit Court of Appeals regardless of my personal beliefs.

5. **At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In a case of first impression, I would first look to the plain language of the constitutional provision or statute at issue. If the language were clear and unambiguous, I would apply it. If further analysis were required because of unclear language, I would look to canons of statutory interpretation, binding precedent regarding definitions of the same words, and binding precedent regarding interpretations of similar language in cases involving other constitutional provisions or statutes. If necessary, I would also look to similar cases outside the Fourth Circuit Court of Appeals and consider them for their persuasive authority.

6. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: I would apply the precedents of the Supreme Court of the United States and the Fourth Circuit Court of Appeals regardless of my personal beliefs.

7. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Statutes enacted by Congress are presumed to be constitutional, and courts are to avoid declaring a statute unconstitutional if the statute can be construed in such a way to avoid reaching that conclusion. *Clark v. Martinez*, 543 U.S. 371, 380-81 (2005); *Jones v. United States*, 529 U.S. 848, 857 (2000). Only in circumstances where Congress exceeded its authority under the Constitution would a statute be determined to be unconstitutional. *United States v. Morrison*, 529 U.S. 598, 607 (2000).

8. **In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: No. If confirmed as a district court judge, I would not look to foreign law or the views of the “world community” to determine the meaning of the Constitution.

9. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: I understand that district court judges are to make decisions based upon precedent and the text of the law without regard to political ideology or motivation. The rule of law requires a dedication to this principle, and I am so dedicated. Without dedication to this principle, our system of justice would not exist.

10. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: I recognize that, if I am confirmed as a district judge, I would no longer be an advocate for any litigant or any position. I am firmly and deeply committed to the principle that judges must administer justice fairly and impartially to all persons and would work hard every day to insure that I did exactly that.

11. **If confirmed, how do you intend to manage your caseload?**

Response: If confirmed, I intend to manage my caseload by reviewing the caseload regularly, delegating appropriate matters to magistrate judges, making use of scheduling orders, holding conferences with the parties, and rendering decisions promptly.

12. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: I believe that judges do have a role in controlling the pace and conduct of litigation. If confirmed, I would control my docket through use of scheduling orders and conferences with the parties. I would consult with the parties regarding the scheduling orders because some cases do not lend themselves to generic scheduling orders. I would also make myself available to the parties to assist in resolving disputes promptly so the case could move forward. I would also render decisions promptly.

13. **You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?**

Response: I recognize that, if I am confirmed as a district judge, I would no longer be an advocate for any litigant or any position. I understand that our judicial system is founded upon, and depends upon, the judge serving as a fair and impartial decision maker, and I would be a fair and impartial judge. In reaching a decision in cases that come before me, I



would first look to the authority of the court to hear the matter. I would read and hear the arguments of counsel or pro se litigants, listen carefully to the evidence, undertake research on the issues, apply the precedent to the specific facts before me, and render a well-reasoned, clear and prompt decision. If confirmed, I believe the most difficult part of this transition for me would be mastering criminal law given my lack of experience in that area. I am committed to learning about criminal statutes and sentencing guidelines and have begun that process, and I will be prepared to preside over criminal cases if I am fortunate enough to be confirmed.

14. **President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: I am not familiar with President Obama’s statement or the context of his statement. If confirmed as a district judge, I would fairly and impartially apply the law to the specific facts before me, keeping in mind that my decisions are bound by precedent of the Supreme Court of the United States and the Fourth Circuit Court of Appeals. I would do so without regard to any personal beliefs I held.

15. **Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.**

- a. **In the penultimate sentence of the Court’s opinion, Justice Kennedy wrote, “This opinion and its holding are confined to those lawful marriages.”<sup>1</sup>**

- i. **Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.**

Response: Yes.

- ii. **What is your understanding of the set of marriages to which Justice Kennedy refers when he writes “lawful marriages”?**

Response: I understand that the set of marriages to which Justice Kennedy refers are those marriages recognized by individual states.

- iii. **Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?**

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<sup>1</sup> *United States v. Windsor*, 133 S. Ct. 2675 at 2696.

Response: Yes.

**iv. Are you committed to upholding this precedent?**

Response: Yes.

**b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, “By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States.”<sup>2</sup>**

**i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

**ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes.

**c. Justice Kennedy also wrote, “The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens.”<sup>3</sup>**

**i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes.

**ii. Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes.

**d. Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”<sup>4</sup>**

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<sup>2</sup> *Id.* 2689-2690.

<sup>3</sup> *Id.* 2691.

<sup>4</sup> *Id.* (internal citations omitted).

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes.

- e. Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”<sup>5</sup>

- i. Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes.

- ii. Will you commit to give this portion of the Court’s opinion full force and effect?

Response: Yes.

- 16. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.

Response: No.

- b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the

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<sup>5</sup> *Id.* (internal citations omitted).

**White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

- 17. Please describe with particularity the process by which these questions were answered.**

Response: I received the questions on November 21, 2014. I carefully reviewed and considered the questions, familiarized myself with the cases cited, and answered the questions truthfully. I reviewed my responses with a representative of the Department of Justice, Office of Legal Policy, and submitted my final responses on November 24, 2014.

- 18. Do these answers reflect your true and personal views?**

Response: Yes.

**Senator Ted Cruz  
Questions for the Record**

**Elizabeth K. Dillon  
Nominee, U.S. District Judge for the Western District of Virginia**

**Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.**

Response: I have not studied the judicial philosophies of the Justices of the Warren, Burger, or Rehnquist Courts; however, if I am confirmed as a district court judge, my judicial philosophy would be to adhere to the precedent of the Supreme Court of the United States and the Fourth Circuit Court of Appeals and to apply the applicable law to the specific facts presented to me and to then reach well-reasoned, clear, and prompt decisions.

**Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?**

Response: The Supreme Court of the United States stated that, in interpreting the Constitution, "we are guided by the principle that "[t]he Constitution was written to be understood by the voters: its words and phrases were used in their normal and ordinary as distinguished from technical meaning.'" *District of Columbia v. Heller*, 554 U.S. 570, 576 (2008) (quoting *United States v. Sprague*, 282 U.S. 716, 731 (1931)). If confirmed, I would follow this precedent and use the original public meaning to interpret the Constitution.

**If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?**

Response: If a decision is precedent today, I would not overrule the decision as a judge; rather, I would be bound by the decision and would follow it.

**Explain whether you agree that "State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power." *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).**

Response: Regardless of any personal beliefs, if I am confirmed as a district court judge, I will follow the precedent set forth by the Supreme Court of the United States in *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985), as I would all Supreme Court precedents.

**Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?**

Response: The Supreme Court has found certain statutes to be unconstitutional in some circumstances where the regulated activity was determined to be non-economic. *United States v. Morrison*, 529 U.S. 598 (2000); and *United States v. Lopez*, 514 U.S. 549 (1995). In deciding a case involving non-economic activity and Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, I would be bound by and adhere to the precedent of the Supreme Court of the United States and the Fourth Circuit Court of Appeals including *Gonzales v. Raich*, 545 U.S. 1 (2005); *United States v. Morrison*, 529 U.S. 598 (2000); and *United States v. Lopez*, 514 U.S. 549 (1995).

**What are the judicially enforceable limits on the President's ability to issue executive orders or executive actions?**

Response: According to decisions of the Supreme Court of the United States, the President's ability to issue executive orders or executive actions "must stem either from an act of Congress or from the Constitution itself." *Medellin v. Texas*, 552 U.S. 491, 525 (2008) (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952)). Should I be confirmed, I would adhere to these precedents and any Fourth Circuit Court of Appeals' precedent.

**When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?**

Response: I would follow the precedent of the Supreme Court of the United States and the Fourth Circuit Court of Appeals in determining whether a right is fundamental for purposes of the substantive due process doctrine. According to Supreme Court precedent, a right is fundamental when it is a right that is "fundamental to our scheme of ordered liberty and system of justice," *McDonald v. City of Chicago*, 130 S. Ct. 3020, 3034 (2010), and is "deeply rooted in the Nation's history and tradition" and is "implicit in the concept of ordered liberty," *Chavez v. Martinez*, 538 U.S. 760, 775 (2003) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997)).

**When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?**

Response: I would follow the precedent of the Supreme Court of the United States and the Fourth Circuit Court of Appeals in determining when a classification is subject to heightened scrutiny under the Equal Protection Clause. According to the Supreme Court of the United States, a classification is subjected to strict scrutiny under the Equal Protection Clause when a fundamental right is burdened or when the classification is based upon race, national origin, or alienage, and a classification based upon gender or illegitimacy is subject to intermediate scrutiny. *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440-41 (1985); *United States v. Virginia*, 518 U.S. 515, 531-33 (1995).

**Do you "expect that [15] years from now, the use of racial preferences will no longer be necessary" in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).**

Response: Regardless of my personal expectations, if any, if I am confirmed as a district court judge, I will follow the precedent of the Supreme Court of the United States, including *Grutter v. Bollinger*, 539 U.S. 306 (2003), and *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013), and the Fourth Circuit Court of Appeals with regard to racial preferences in public higher education.

**Michael Botticelli Nomination Hearing****Questions for the Record from Ranking Member Charles E. Grassley****1. Obama Administration Mixed Messages on Marijuana**

Earlier this year President Obama stated he thought recreational use of marijuana was merely a “bad habit” that was no more dangerous than consuming alcohol. He also indicated that he thought that it was “important” for the legalization of recreational marijuana under state law in Colorado and Washington to “go forward.” Attorney General Holder has also recently stated that he’s “cautiously optimistic” about the legalization of recreational marijuana in those states. Finally, the President recently installed an advocate for legalization of recreational marijuana, Vanita Gupta, as acting Assistant Attorney General for Civil Rights.

- a. Do you think these comments and actions by prominent figures such as the President and the Attorney General have contributed to the recent well-documented reduction in the perception of risk related to recreational marijuana use among young people?

**ANSWER:** The perception amongst youth of the harmfulness of marijuana has been steadily declining since 2005, according to two widely recognized national surveys, the Monitoring the Future survey supported by the National Institute on Drug Abuse (NIDA) and the National Survey on Drug Use and Health from the Substance Abuse and Mental Health Services Administration.

- b. If confirmed as head of ONDCP, what specific steps will you take to help reverse this reduction in the perception of risk?

**ANSWER:** I will work to bolster our prevention efforts through our Drug Free Communities (DFC) Support Program and through the High Intensity Drug Trafficking Areas (HIDTA) program.

ONDCP funds the DFC Support Program, a powerful tool supporting drug prevention efforts in communities nationwide. The program currently provides grants to approximately 680 local drug-free community coalitions, enabling them to increase collaboration among community partners, including local youth, parent, business, religious, civic, law enforcement, and other groups, to prevent and reduce youth substance use, including marijuana use.

DFC coalitions across the country have identified marijuana as a significant problem in their communities. Nearly 90 percent of Fiscal Year (FY) 2013 DFC coalitions list marijuana as one of their top five targeted substances, and are taking action to prevent young people from using



the drug.<sup>1</sup> These coalitions employ a host of prevention strategies, including disseminating multi-lingual educational materials, hosting drug-free social events for youth, working with schools and educators to promote drug-free campuses, and working with local media to highlight prevention activities.

Evaluation data indicate that where DFC dollars are invested and coalitions operate, youth substance use is lower. Between 2002 and 2012, DFC communities have experienced reductions in use of alcohol, tobacco, and marijuana among both middle school and high school students. And in DFC communities, both middle and high school students' perception of parental disapproval of marijuana also increased significantly among all grantee cohorts.<sup>2</sup>

All of these results suggest that DFC community coalitions play a significant role in decreasing marijuana use and changing attitudes for the better among young people across the country.

ONDCP recently announced the FY 2014 DFC grants, including \$24.8 million in new grants to 197 communities and 3 new DFC Mentoring grants across the country. These awards join the \$59.1 million in DFC continuation grants released to 463 currently-funded DFC coalitions and 17 DFC Mentoring continuation coalitions.

ONDCP also administers the HIDTA program, which provides assistance to Federal, state, local, and tribal law enforcement agencies operating in areas determined to be critical drug trafficking regions of the United States.

Although the HIDTA program's primary mission is to dismantle and disrupt drug trafficking organizations, expanding prevention efforts offer HIDTAs the ability to address the drug threat in a community in a more balanced fashion. Currently, 22 HIDTAs, including all 5 Southwest Border HIDTA Regions, sponsor prevention activities. Nine HIDTAs specifically target marijuana, among other substances, in their prevention efforts.

## **2. Cannabidiol**

Last year, the Food and Drug Administration (FDA) approved clinical trials for Epidiolex, a highly-concentrated form of cannabidiol (CBD), for the treatment of rare forms of epilepsy. As you know, CBD is a non-psychoactive component of marijuana. Many people throughout the country and in Iowa, especially young children, are afflicted with severe cases of intractable epilepsy that anecdotal evidence suggests may be effectively treated with CBD. Research related to the potential medical benefits and risks associated with CBD could help determine whether this is so.

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<sup>1</sup> Unpublished Drug Free Communities Support Program Evaluation Tracking.

<sup>2</sup> *Ibid.*, pg. 19

- a. Do you support research into the potential benefits and risks associated with the administration of CBD to treat patients such as these?

ONDCP supports the efficient and scientific assessment of CBD in connection with potential new drug development and is supportive of FDA efforts, consistent with Federal Food, Drug, and Cosmetic Act and the Controlled Substances Act (CSA), to expeditiously provide safe and effective medicine to address urgent healthcare needs. It is important that the product be studied under appropriate protocols and submitted to the FDA in an IND application, so that there are assurances of the manufacturing quality of the drug.

In June 2014, FDA granted Fast-Track designation to the investigational CBD product Epidiolex being developed for the treatment of this rare form of childhood epilepsy. FDA has also authorized use of it as a part of an expanded access program, designed to facilitate the availability of investigational drug products to patients while those drugs are being studied for approval. According to the drug manufacturer, there are now 21 active expanded access INDs for Epidiolex treating about 300 patients with epilepsy syndromes. Approximately 95 percent of these INDs are for patients between 1 and 17 years of age.

The Federal Government will continue to support research on how marijuana compounds such as CBD may be used safely and effectively as medicine.

- b. How can such research be carried out under the current legal and regulatory framework for approving drugs in the United States?

Marijuana contains compounds with the potential to provide new treatments for important diseases, and the Administration is facilitating scientifically rigorous investigations to learn more about potential therapeutic benefits.

The Department of Health and Human Services (HHS) has approved or supported several hundred research projects for marijuana and its constituent compounds and continues to encourage research in this area, including potential therapeutic benefits.

Research on the therapeutic effects of marijuana or its constituents is being supported by various Institutes of the National Institutes of Health, as related to their missions. NIDA is one of the main supporters of such research, particularly as it relates to the development of less or non-addictive treatments for pain or treatments for addiction.

To support additional research, in May the Drug Enforcement Administration (DEA) approved an increase in the Government's research quota from 21 kilograms to 650 kilograms this year in order to provide a continuous and uninterrupted supply of marijuana to support researchers approved by the Federal Government.

The Administration, through the FDA's Expanded Access Program, also supports access to investigational new drugs outside of a clinical trial by patients with serious or life-threatening conditions who do not meet the enrollment criteria for the trial. Recently, the manufacturer of the new investigational drug Epidiolex announced the availability of expanded access for the treatment of patients with epilepsy.

The Single Convention on Narcotic Drugs of 1961 is an international treaty to prohibit production and supply of specific drugs and of drugs with similar effects except under license for specific purposes, such as medical treatment and research. The Convention requires parties to establish a government agency to control cultivation of drugs such as cannabis.

In the United States, NIDA fulfills that function through a contract with the University of Mississippi to grow cannabis; this is the only legal source of cannabis for medical and research purposes in the United States under Federal law. NIDA supplies this marijuana for Federally and non-Federally funded research projects.

Until recently, research requests indicated a particular interest in studies involving THC, but there is growing interest in marijuana that contains CBD as well. To be responsive to this interest, NIDA has grown a crop of marijuana this year, which is currently being harvested and processed, with varying levels of THC and CBD to meet the demands of the research community. NIDA will continue to grow additional quantities of marijuana with varying THC and CBD levels as the needs require, with appropriate DEA approvals.

- c. Are there any legal or regulatory barriers to CBD research that you believe could be responsibly eliminated or changed in order to facilitate this research?

**ANSWER:** I welcome the opportunity to work with you and with relevant Federal agencies to identify ways to remove barriers and stimulate research on CBD.

### 3. Diversion of Marijuana from Colorado to Iowa

The Cole Memorandum of August 2013 suggests that the Department of Justice will not seek to enforce the Controlled Substances Act in states that legalize recreational marijuana, except to enforce certain federal priorities, so long as those states implement effective regulatory schemes. Those priorities include the diversion of marijuana from Colorado to other states.

But in 2010, Colorado was the source state for 10% of all marijuana interdicted in Iowa. That number grew to 25% in 2011, and to 36% in 2012. This is all *before* legalization of recreational use there. In the words of Colorado's Attorney General, the state is becoming "a significant exporter of marijuana to the rest of the country."

- a. What steps can the Administration take to help protect Iowa from the increasing diversion of marijuana from Colorado to it and other states?

**ANSWER:** ONDCP is not an enforcement agency, but one of the eight enforcement priorities that the Deputy Attorney General describes as “particularly important to the federal government” in his August 29, 2013, memorandum is, “preventing the diversion of marijuana from states where it is legal under state law in some form to other states.”

As set forth in the Deputy Attorney General’s memorandum, DOJ expects that all jurisdictions that have enacted laws legalizing marijuana in some form will also establish strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, and to protect against the harms identified in the memorandum. DOJ will use its limited prosecutorial resources to enforce the law in all states in a manner that most effectively addresses its enforcement priorities and ensures public health and safety.

The increase in cross border trafficking that you describe is a serious concern. In fact, the Rocky Mountain HIDTA has identified the diversion of marijuana from Colorado to other states, including Iowa, as an emerging threat and has contacted law enforcement partners in other states to request voluntary reporting of instances in which marijuana from Colorado was seized in their jurisdiction. In 2013, there were 288 Colorado marijuana interdiction seizures destined for other states, compared to 58 in 2008—a 397 percent increase. Of the 288 seizures in 2013, there were 40 different states destined to receive marijuana from Colorado.

Consistent with the mission of the National HIDTA program, the Rocky Mountain HIDTA focuses its efforts on dismantling or disrupting drug trafficking and money laundering organizations. The Rocky Mountain HIDTA identifies domestically-produced marijuana as a key area of concern. In Colorado, the Rocky Mountain HIDTA supports 13 task forces focusing on disrupting or dismantling drug trafficking organizations, including marijuana-trafficking organizations, in the most effective and efficient manner.

Working at the other end of this diversion activity, the Midwest HIDTA, which includes jurisdictions in Iowa, provides a coordinated strategy to identify, disrupt, and dismantle drug trafficking organizations. The Midwest HIDTA supports co-located Federal, state and local task forces and strives to work Federal level investigations and identified priority targets. These task forces typically work priority poly-drug organization cases.

The HIDTA Program has established a Domestic Highway Enforcement (DHE) Strategy, which provides funding and support to primarily State Police and State Highway Patrol interdiction efforts to enhance coordinated multi-jurisdictional law enforcement efforts on the Nation’s highways. One such DHE initiative is the Iowa Interdiction Support initiative. The Midwest HIDTA DHE strategy focuses on drug trafficking organizations, including those trafficking in Colorado-sourced marijuana.

In addition, the Iowa Division of Narcotics Enforcement (DNE) has received support from the Midwest HIDTA for use by the Iowa State Patrol and DNE for Domestic Highway Enforcement. The enhanced interdiction efforts have been very successful, with seizures of sizable quantities of controlled substances and bulk cash shipments. More importantly, the intelligence gathered has aided in further identifying drug trafficking organizations and has produced information in furtherance of conspiracy investigations.

The DNE also has numerous officers assigned to DEA and other Federal task forces to facilitate interdiction and other enforcement efforts that cross jurisdictional authorities. The goal in every investigation is to identify the source, location, and destination of the supply. Emphasis is placed on sharing of information and consulting data systems to determine if the target of the interdiction investigation is also a target or co-conspirator in some other existing case or investigation.

The DNE is a participant in all the HIDTA Task Forces operating within the state. The DNE has a network of agents and offices throughout the state that enhance communication and coordination with a wide variety of agencies on the federal, state, and local level. The agents work with the DEA, United States Attorneys, and local prosecutors on a regular basis.

- b. If confirmed as head of ONDCP, what specific steps will you take to do so?

**ANSWER:** ONDCP is not an enforcement agency.

ONDCP will continue to lead interagency efforts to collect and analyze data to assess the public health and safety consequences of state legalization laws, including data on the effects on other states. I will also continue to robustly support the efforts of our HIDTAs and law enforcement agencies to prevent diversion to other states.

#### **4. U.N. Conventions on Narcotic Drugs**

As you know, the United States is a signatory of the U.N. Conventions on Narcotic Drugs, which limit the production, distribution, possession and use of narcotics, including marijuana, to scientific and medical purposes. However, in a March 2014 report, the International Narcotics Control Board concluded that the laws in Colorado and Washington legalizing recreational marijuana use were “not in conformity” with these treaties. Moreover, in October 2014, Ambassador William Brownfield, the Assistant Secretary of State for the Bureau of International Narcotics Control and Law Enforcement Affairs, outlined what he described as the “four pillars”

of U.S. international drug policy. These pillars included advocating for a “flexible interpretation of the U.N. Conventions” and “tolerating different national drug policies.”<sup>3</sup>

- a. Do you believe the United States is currently in compliance with its treaty obligations outlined in the U.N. Conventions, despite the legalization of marijuana under the laws of various states? Why or why not?

**ANSWER:** While the consequences of legalization measures in four states are a serious concern, United States compliance with the Conventions has not changed. The United States is firmly committed to upholding our obligations under the three U.N. drug conventions, as well as working with international partners to promote the goals of those conventions. These conventions are the foundation of international cooperation for dealing with all aspects of the drug problem, and we support them unwaveringly.

We believe that the policies set forth in the UN Drug Conventions limiting access to controlled substances for medical and scientific purposes are sound, and based on valid health concerns. The United States has opposed efforts to alter the Conventions.

Under Federal law, marijuana remains a Schedule 1 drug, subject to a high level of control, with criminal penalties for its illegal distribution and sale. Per the requirements of the Conventions, as well as our domestic laws, the U.S. Government heavily emphasizes proactive enforcement of laws against drug production and trafficking, as well as related money laundering, violence, and other illegal activities that impact the safety of our citizens. We lead the world in efforts against international drug cartels wherever they operate, and have – with the strong support of the Congress over many years - provided training, technical assistance, and other aid to key partners around the world, especially in the Western Hemisphere to help them disrupt and dismantle these organizations.

The Federal Government has enforced and is enforcing Federal drug laws within existing resources and allows prosecutors appropriate discretion to prioritize cases. In the Memorandum from Deputy Attorney General Cole dated August 29, 2013, DOJ has articulated eight Federal enforcement priorities with respect to cannabis and is currently investigating and has prosecuted criminal enterprises involved in marijuana trafficking and violence in all areas of the country.

As the International Narcotics Control Board (INCB) has observed, the Conventions are highly respectful of domestic law, and each country’s unique circumstances affect how it implements its

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<sup>3</sup> The “four pillars” of U.S. international drug policy were described as: (1) respecting the existing U.N. Conventions; (2) accepting flexible interpretation of the U.N. Conventions; (3) tolerating different national drug policies; and (4) combating and resisting criminal organizations. See William R. Brownfield, Asst. Sec’y, Bureau of Int’l Narcotics and Law Enforcement Affairs, U.S. Dep’t of State, Briefing on Trends in Global Drug Policy (Oct. 9, 2014) (transcript available at <http://fpc.state.gov/232813.htm>).

Convention obligations. In particular, article 36 of the Single Convention acknowledges “constitutional limitations” as a constraint. The Conventions, as they have evolved in practice, show the capacity to permit variations in national law and policy. In the case of the United States, constitutional limitations are a major factor, given the interplay of Federal and state-level laws and authorities on drug control issues.

The Conventions also explicitly authorize countries to provide alternatives to prison for drug users and low-level drug-involved offenders. Thus for example, inherent in the Conventions is sufficient flexibility for countries like the United States to differentiate sentencing policy between significant drug traffickers and violent criminals - deserving of stiff penalties and long prison sentences - and drug-involved nonviolent offenders, who are more appropriately directed into alternatives to incarceration that can concurrently address substance use problems and protect public safety.

- b. What do you believe will be the impact of the State Department’s policy, as set forth in Ambassador Brownfield’s remarks, on U.S. efforts to continue as an international leader on drug control issues?

**ANSWER:** The Four Pillar framework is an effort to stake out a middle ground between those who believe that prosecution and jail is the only approach and those favoring radical changes to the conventions. The pillars advocate for preservation of the integrity of the conventions while accepting innovation at the national level and prioritizing cooperation against transnational organized crime. This is wholly consistent with the mandates of the conventions, which are highly respectful of domestic law while providing the tools for cooperating on controls, sharing best practices, and expanding access to essential medicines.

While our international partners are interested in the impacts of the actions taken at the state level with regard to marijuana, policies by U.S. states have not had an impact on our ability to work bilaterally and multilaterally on a range of drug issues. Countries continue to support the key areas we emphasize in our *National Drug Control Strategy*, such as strengthening international capacities to reduce drug production and trafficking, increasing efforts on public health solutions to drug use, promoting sentencing reforms that include reduced and alternative sentences for non-violent, low-level offenders with substance use disorders, and using science and evidence to guide drug policies. Our international partners also continue to recognize the urgent threats posed by transnational organized crime, and the need for strengthened international responses.

We will continue to support global efforts to reduce the global drug problem and champion a balanced approach to reduce the demand for drugs and combat trafficking.

- c. If confirmed as Director of ONDCP, what specific steps will you take to ensure that the United States remains a leader on international drug control issues?

**ANSWER:** The United States is a recognized leader in developing and promoting evidence-based drug abuse prevention and treatment programs and provides millions of dollars of funding and technical assistance to countries to support their efforts to prevent and reduce drug use and substance use disorders. We support most of the world's research on the health aspects of drug abuse and addiction, and also lead the world in efforts against international drug cartels wherever they operate, and have – with the strong support of the Congress over many years – provided training, technical assistance, and other assistance to build the criminal justice capacities of key partners around the world, especially in the Western Hemisphere, to help them disrupt and dismantle these organizations.

ONDCP, in close collaboration with the Department of State and other agencies, works multilaterally to demonstrate U.S. leadership on international drug control issues and shares best practices and research with the international community. One opportunity to ensure that the United States remains a leader on international drug control issues is at the annual United Nations Commission on Narcotics Drugs (CND). Under my direction, ONDCP is working on an ambitious agenda for the next CND meeting in March 2015.

Earlier this year, as Acting Director, I co-led the U.S. delegation to the CND, to actively promote balanced and effective drug policies under the framework of the U.N. Conventions. We conducted the following activities:

- Drafted and pushed through to enactment CND resolutions on the need for an international response to new synthetic drugs and on the importance of recovery;
- Spoke at six side events, including ones on alternatives to incarceration, drugged driving, synthetic drugs, overdose prevention, and international demand reduction;
- Held more than 10 bilateral meetings with a wide range of governments;
- Co-Chaired with Sweden an eight-country multilateral breakfast meeting on the importance of maintaining the current U.N. Drug Control Conventions;
- Participated in a high level dialogue with the United Nations Office of Drugs and Crime (UNODC) and INCB leadership;
- Conducted a patient and constructive approach on the negotiation of texts, including the longer Joint Ministerial Statement and all the other CND resolutions, to highlight U.S. positions and reject policies which advance drug legalization.

In meetings with counterparts in the international community, the United States will continue to emphasize that marijuana remains illegal under Federal law; reaffirm its strong support for the three U.N. drug conventions, and reinforce its commitment to reduce and prevent drug use,



including marijuana. We will continue to support global efforts to reduce the drug problem and champion public health interventions to reduce the demand for drugs and continuing efforts to stop trafficking and reduce supply.

#### **5. Methamphetamine**

The number of methamphetamine laboratory incidents is at a seventeen-year low in Iowa, perhaps in part due to law enforcement tracking the sales of pseudoephedrine. However, the quantity of the drug itself being seized there is at a nine-year high. Much of this methamphetamine appears to be being trafficked into Iowa from Mexico. Indeed, in 2013, more than half of Iowa's drug related prison admissions were methamphetamine-related. Also in 2013, methamphetamine abuse constituted fifteen percent of all publicly-funded treatment entries, which is an all-time high percentage for Iowa.

- a. What more can the Administration do to prevent the trafficking of methamphetamine and other drugs coming from the southwest border into Iowa?

**ANSWER:** ONDCP is very concerned about current trends for methamphetamine production, trafficking, and consumption, and the Administration is working on this issue on multiple fronts. Although we do not have state-by-state breakouts from the National Survey on Drug Use and Health, the national trends suggests a statistically significant increase in adult consumption of methamphetamine between 2010 and 2013. The longstanding problem of small domestic laboratories, although still a major threat to public and officer safety, appears to be on the decline. According to reporting from the National Methamphetamine and Pharmaceutical Initiative (NMPI), which is supported by ONDCP's HIDTA Program, domestic laboratories and labs sites located have dropped from over 15,000 in 2010 to less than 7,000 in 2014 (as of the end of October). This reduction is likely a result both of retail restrictions on the sale of pseudoephedrine and the increased availability of methamphetamine produced in Mexico and smuggled across the Southwest Border. Southwest Border seizure trends over the past five years suggest a troubling increase in the flow of methamphetamine into the United States. For example, U.S. Customs and Border Protection seizures in California increased from 2,173 kilograms in 2009 to 7,255 kilograms in 2013, a more than 300 percent increase.

Although past efforts to control international diversion of pseudoephedrine and ephedrine, as well as combination products containing these substances, were relatively effective a decade ago, methamphetamine manufacturers have changed their methods of production and resorted to what is known as the P2P method that does not require ephedrine. The P2P (1-phenyl-2-propanone) method employs different chemicals, sometimes referred to generally as "pre-precursors." They pose a very significant challenge to law enforcement agencies seeking to track and seize them because they are not internationally controlled. Even if one of these chemicals is on a watch list, interdiction efforts are evaded through mislabeling or outright smuggling. They are getting into

Central America and Mexico in large quantities and being turned into methamphetamine for consumption in the United States.

A number of steps are currently being taken by the Administration to combat this threat to the United States. Specifically, the Administration is engaging with China and India, two of the main precursor source countries, to improve international controls of precursor chemicals. In addition to working bilaterally, we are working multilaterally with the UNODC and the INCB to tighten international control mechanisms to prevent the diversion of precursor chemicals from legitimate international commerce. In addition, the Administration is working to improve the capacity of Mexico and Central American nations to detect and seize diverted precursors. DEA is also working closely with Mexican law enforcement to better identify and destroy "superlabs" and to disrupt and dismantle the organizations which produce and traffic methamphetamine. Moreover, this Administration is providing training and technical assistance to the Central American nations to improve precursor disposal capabilities in the region. The disposal issue is critical because partners without a safe way to dispose of vast amounts of seized chemicals will inevitably reduce their efforts at detection and seizure.

- b. If confirmed as Director of ONDCP, what specific steps will you take to address this problem?

**ANSWER:** Given the circumstances set out above, Iowa and the rest of the United States face an ongoing serious challenge with regard to methamphetamine production and trafficking. I am committed to pushing the U.S. interagency and our international partners to address it as a high priority. I will continue to support demand reduction efforts to prevent and treat methamphetamine use, a highly addictive drug. I will also advocate continued support of the NMPI as well as other efforts in the Federal interagency to reduce methamphetamine use and its consequences, such as methamphetamine cleanup funds provided through DOJ. I look forward to continuing to work with Congress to address this problem which directly threatens the health and safety of our citizens.

## **6. Synthetic Drugs**

As you know, synthetic drugs remain a vexing problem for both law enforcement and public health officials. One aspect of the challenge they pose is that many of these drugs are manufactured in China and then imported into the United States.

- a. What more can the Administration do to prevent importation of synthetic drugs, either through engaging the Chinese government or to interdict them at the border?

**ANSWER:** Synthetic drugs are indeed a vexing problem. The use of New Psychoactive Substances (NPS) is a problem not just in the United States but around the world. Over the past several years, the United States, like our partners in Europe, has been inundated with more than 250 designer synthetic drugs, challenging our capability to keep up with ever-changing chemical formulas. Manufactured in labs overseas, these drugs are unregulated and can be extremely dangerous to consume. As noted in the question, most of the raw components for these substances originate in China. The previous Director of National Drug Control Policy, R. Gil Kerlikowske, led an interagency counterdrug visit to China in 2012, during which (in addition to addressing methamphetamine precursor issues) he highlighted the Administration's concern about Chinese production and transshipment of the raw chemical components of NPS. During that visit, and after – via the DEA Office in Beijing – the United States has urged China to: ban the production and trafficking of NPS in their domestic laws; collaborate with the U.S. Government and other governments to promote international control of these substances; and work with the United States on specific cases related to NPS produced in China. There has been some incremental progress, but it has not been as rapid as we would like.

- b. If confirmed as Director of ONDCP, what specific steps will you take to address this problem?

**ANSWER:** We will continue to push for international scheduling of NPS through the World Health Organization and will, under the Department of State's leadership, collaborate with the other G-7 countries to accelerate international control of these substances. The Department of State is also funding the INCB to organize international operations to track the full supply chain process for NPS. These exercises have proved fruitful in the past in identifying key nodes in the illicit supply chain. In addition to DEA's leadership in working worldwide on the NPS problem, other agencies are also working to track and disrupt the NPS trade. The Department of Homeland Security, in particular, has been working to improve exchange of trade data on chemical products with the goal of identifying and blocking the entry of NPS into the United States. Finally, I know DEA has sought to be responsive to Congressional inquiries on how to facilitate more effective prosecution of NPS producers and traffickers. I am supportive of these discussions and look forward to exploring with Congress how to ensure that our law enforcement agencies have the authorities they need to efficiently disrupt and dismantle those organizations that are threatening the health of our citizens with these dangerous substances.

Senate Committee on the Judiciary  
Nominations Hearing  
November 13, 2014

United States Senator Mazie Hirono

Questions for Mr. Michael Botticelli:

- 1) Mr. Botticelli, earlier this Congress this Committee looked at ways to alleviate the stress currently placed on our overburdened Bureau of Prisons. One issue we discussed was a reduction of mandatory minimum sentences for low-level, non-violent drug offenses. Do you have a position on reducing the mandatory minimums in these instances?

**ANSWER:** Sentencing reform is urgent because prison spending has increasingly displaced other important public safety investments, such as resources for investigation, prosecution, prevention, intervention, substance use and mental health treatment, prisoner reentry, and aid to local law enforcement. It is important, therefore, that we revise penalties for certain low-level, non-violent drug offenses while maintaining significant penalties against kingpins, drug and gang organization leaders, violent defendants, and those who possessed a firearm or dangerous weapon. This balanced approach would continue to keep our communities and streets safe.

- 2) Mr. Botticelli, can you tell me a little more about the Office of National Drug Control Policy's prescription drug plan to reduce improper use of prescription drugs?

**ANSWER:** The Obama Administration released the Prescription Drug Abuse Prevention Plan (the *Plan*) in 2011. The *Plan* was developed in conjunction with other Federal agencies, to include the Department of Justice (DOJ) and the Department of Health and Human Services (HHS) and established specific action items. The *Plan* focused primarily on preventing prescription drug abuse and was intended to be an adjunct to the *National Drug Control Strategy* (the *Strategy*). The *Strategy*, released annually by ONDCP, provides a framework for reducing drug use and its consequences through prevention, treatment, support for recovery, criminal justice reform, law enforcement efforts and international supply reduction efforts.

The Plan in Brief

The *Plan* includes four pillars:

- **Education.** A crucial first step in tackling the problem is to educate parents, youth, and patients about the dangers of abusing prescription drugs, while educating prescribers on the appropriate and safe use, and proper storage and disposal of prescription drugs.

- **Monitoring.** Implement prescription drug monitoring programs (PDMPs) in every state to reduce “doctor shopping” and diversion, and enhance PDMPs so they share data across states and are used by healthcare providers.
- **Proper Medication Disposal.** Develop convenient and environmentally responsible prescription drug disposal programs to help decrease the supply of unused prescription drugs in the home.
- **Enforcement.** Provide law enforcement with the tools necessary to eliminate improper prescribing practices and reduce the number of pill mills.

#### Progress to Date

One of the most significant signs of progress under the plan is that the rate of current illicit drug use among adolescents was down 13 percent from 2009, largely due to decreases in prescription drug abuse. Decreasing the number of new initiates will lead to long-term decreases in the number of individuals with chronic prescription drug abuse problems.

Progress has been made in each of the four pillars:

- **Education:** Prescribers who work in the Federal Government in clinical roles at HHS, DOJ, and the Department of Defense are completing continuing education on substance abuse. Drug manufacturers have provided funding for grants to support safe prescribing of extended-release, long-acting opioids through the Food and Drug Administration (FDA) Risk Evaluation and Mitigation Strategy (REMS) for these drugs. The FDA has set a goal of training 80,000 prescribers evaluating the program’s effectiveness for changing prescribing behavior by the end of 2015. The Federal Government has supported a variety of free or low-cost options online, such as NIDAMED,<sup>1</sup> Do No Harm,<sup>2</sup> and Scope of Pain,<sup>3</sup> with continuing education credits options for prescribers.
- **Monitoring:** In 2011 when the *Plan* was released, only 35 states had electronic PDMPs. In these states, the registration and use by prescribers was low.<sup>4</sup> Today, 49 states have operational PDMPs, and the District of Columbia has legislation authorizing a PDMP. There has been considerable activity to begin facilitating information sharing among some of these PDMPs.
- **Proper Medication Disposal:** The Drug Enforcement Administration (DEA) has held nine National Take-Back Days, and during these over 2,411 tons of medicines has been collected.<sup>5</sup> On September 9, 2014, DEA published its final rule on controlled

<sup>1</sup> NIDAMED CME training website linked to on 11/13/2014.

[http://www.drugabuse.gov/topics/pain-management-cme/ces/utm\\_source=National&utm\\_medium=Web-Badge&utm\\_content=October-2012&utm\\_campaign=NIDA-cf.cof](http://www.drugabuse.gov/topics/pain-management-cme/ces/utm_source=National&utm_medium=Web-Badge&utm_content=October-2012&utm_campaign=NIDA-cf.cof)

<sup>2</sup> Do No Harm website linked to on 11-13-2014. <http://cme.usubs.edu/medication-misuse-program/cme-USUAMS.html>

<sup>3</sup> Scope of Pain Website linked to on 11-13-2014. <https://www.scopeofpain.com>

<sup>4</sup> ONDCP Fact Sheet on Prescription Drug Monitoring Programs Released 4-8-2011 available at [http://www.whitehouse.gov/sites/default/files/ondcp/Fact\\_Sheets/pdmp\\_fact\\_sheet\\_4-8-11.pdf](http://www.whitehouse.gov/sites/default/files/ondcp/Fact_Sheets/pdmp_fact_sheet_4-8-11.pdf) linked to on 11-13-2014

<sup>5</sup> <http://www.dea.gov/divisions/hq/2014/hq110514.shtml>

pharmaceutical drug disposal in the *Federal Register*, effective October 9, 2014. DEA plans to sunset its Take-Back Days program in favor of local community-supported disposal options permitted under the final rule. In anticipation, ONDCP and DEA have begun educating stakeholders about the new options for year-round disposal programs through trainings and other educational programs.

- **Enforcement:** Since 2009, the National Methamphetamine and Pharmaceuticals Initiative, an initiative of ONDCP's High Intensity Drug Trafficking Areas Program, has provided training to over 26,000 law enforcement and criminal justice professionals. DOJ enforcement efforts in Florida reduced the number of pill mills significantly over the last four years.

#### Resulting New Activity from the Plan

The National Governor's Association (NGA), the Association of State and Territorial Health Officials (ASTHO), the National Association of Attorneys General, and others have all invited ONDCP to engage with their members on these issues. NGA and ASTHO have worked with ONDCP and HHS to lead policy academies to assist state teams to develop their own prescription drug abuse prevention plans with Governor or State Health Department Commissioner support.

In addition, ONDCP is working with HHS and DOJ to expand access to the opioid overdose prevention medication naloxone, both for first responders and community groups. HHS (through its Substance Abuse and Mental Health Services Administration) and DOJ (through its Bureau of Justice Assistance) both released toolkits to help with the development of naloxone programs for first responders and community groups.

#### Conclusion

There is evidence the *Plan* is making a difference. A study of likely drug diversion showed a decrease from 2008 to 2012.<sup>6</sup> The latest available (2012) mortality data from the Centers for Disease Control and Prevention shows the first decline in the rate of fatal overdoses involving prescription opioids in over a decade.<sup>7</sup>

<sup>6</sup>Simeone, R. Doctor Shopping Behavior and the Diversion of Opioid Analgesics: 2008-2012. August 14, 2014. ONDCP Report. Available at [http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/opioid\\_diversion\\_08142014\\_final.pdf](http://www.whitehouse.gov/sites/default/files/ondcp/policy-and-research/opioid_diversion_08142014_final.pdf)  
Linked to on 11-13-2014

<sup>7</sup>Source: National Center for Health Statistics/CDC, National Vital Statistics Report, Final death data for each calendar year (Oct 2014).

**Nominations Hearing**

**November 13, 2014**

**Questions for the Record from Senator Dianne Feinstein**

**for**

**Michael Botticelli, Acting Director, Office of National Drug Control Policy**

1. As you know, despite Congressional action two years ago that outlawed several synthetic drugs, manufacturers and distributors have managed to stay one step ahead of the law by slightly altering the chemical structures that produce “controlled substance analogues,” which mimic the psychoactive effects of drugs like ecstasy, cocaine, PCP, and LSD. These slight changes have enabled manufacturers and distributors to avoid prosecution and have led to overdoses and deaths, primarily amongst our nation’s youth.
  - *My staff has repeatedly heard from the Drug Enforcement Administration, Department of Homeland Security and others that a more efficient, permanent scheduling process is crucial to staying ahead of synthetic drug manufacturers. In your view, would legislation that enables synthetic substances to be scheduled more expeditiously help address the import, manufacture, and distribution of these dangerous synthetic drugs?*

**ANSWER:** While the existing procedure to control substances is sufficient with respect to known substances (e.g., chemical entities approved for medical use), legislation that enables new psychoactive substances to be permanently controlled quickly would help address the import, manufacture, and distribution of these dangerous drugs. Currently, the Controlled Substances Act (CSA) requires the Drug Enforcement Administration to wait for the next new psychoactive substance to be synthesized, identified, and sold in retail environments with labeling designed to circumvent the Analogue Act. As a result, individuals who abuse substances and unsuspecting youth have been exposed to dangerous substances and, in many instances, have even suffered adverse health consequences, including death. We would be happy to work with your office on legislation to address this concern.

2. In 2012, Colorado and Washington legalized the production, distribution, possession, and use of marijuana for recreational purposes. Recently, Oregon and Alaska approved similar initiatives, while the District of Columbia approved the possession, use, and production of marijuana.
  - *Does ONDCP believe that these laws are in conflict with the United States' obligations under the U.N. Conventions, which require state parties to limit the production, distribution, possession, and use of marijuana to scientific and medical purposes?*

**ANSWER:** We respect the democratic process, but the evidence pointing to serious health risks associated with cannabis use, particularly by children and young adults, remains unchanged. This is why the Office of National Drug Control Policy (ONDCP) is spearheading an effort by the Federal Government to monitor cannabis use in the United States so that we may scientifically examine its effects. We believe that the policies set forth in the U.N. drug conventions limiting access to controlled substances for medical and scientific purposes are sound, and based on valid health concerns. The United States is firmly committed to upholding our obligations under the three U.N. drug conventions, as well as working with international partners to promote the goals of those conventions. These conventions are the foundation of international cooperation for dealing with all aspects of the drug problem, and we support them unwaveringly.

Under U.S. Federal law, marijuana remains a Schedule I drug under the CSA, subject to a high level of control, with criminal penalties for its illegal distribution and sale.

The Federal Government is committed to enforcement of the CSA. The Department of Justice (DOJ) articulated eight Federal enforcement priorities with respect to cannabis (see Memorandum from Deputy Attorney General Cole dated August 29, 2013) and is currently investigating and has prosecuted criminal enterprises involved in marijuana trafficking and violence in all areas of the country. Additionally, ONDCP and its Federal partners are monitoring the implementation of state-level initiatives.

While the consequences of legalization measures in four states are a serious concern, U.S. compliance with the Conventions has not changed.



- *The State Department recently called for a flexible interpretation of the U.N. Conventions. Does ONDCP support a flexible interpretation of the U.N. Conventions? If so, what does ONDCP's interpretation look like?*

**ANSWER:** The U.S. Government strongly supports the U.N. drug control conventions that have been the foundation of global anti-drug efforts since the initial opium convention in 1912. The three modern conventions (1961, 1971, and 1988) continue to serve as the essential guiding documents to help all governments forge strong and effective drug policies. The United States opposes efforts to alter the Conventions.

Per the requirements of the Conventions, as well as our domestic laws, the U.S. Government heavily emphasizes proactive enforcement of laws against drug production and trafficking, as well as related money laundering, violence, and other illegal activities that impact the safety of our citizens. We lead the world in efforts against international drug cartels wherever they operate, and have – with the strong support of the Congress over many years – provided training, technical assistance, and other aid to key partners around the world, especially in the Western Hemisphere to help them disrupt and dismantle these organizations.

ONDCP supports what the Department of State has termed a “flexible” interpretation of the conventions, which addresses the range of responses to drug problems that the conventions envision, rejecting a rigid “prosecute and imprison” stance that some have argued is required under the conventions. As the International Narcotics Control Board has observed, the Conventions are highly respectful of domestic law, and each country’s unique circumstances affect how it implements its Convention obligations. In particular, article 36 of the Single Convention acknowledges “constitutional limitations” as a constraint. The Conventions, as they have evolved in practice, show the capacity to permit variations in national law and policy. In the case of the United States, constitutional limitations are a major factor, given the interplay of Federal and state-level laws and authorities on drug control issues.

The Conventions also explicitly authorize countries to provide alternatives to prison for drug users and low level drug-involved offenders. Thus, for example, inherent in the Conventions is sufficient flexibility for countries like the United States to differentiate sentencing policy between significant drug traffickers and violent criminals and drug-involved nonviolent offenders, who are more appropriately directed into alternatives to incarceration that can concurrently address substance use problems and protect public safety.

3. In August 2013, the Department of Justice issued “the Cole Memorandum” which delineated eight priority enforcement areas related to marijuana. This memo also emphasized that states must implement “strong and effective regulatory and enforcement systems” to ensure that their laws legalizing marijuana “do not undermine federal enforcement priorities.”
- *Is ONDCP working with its federal counterparts to ensure that states have implemented strong and effective regulatory and enforcement systems? If so, what metrics are being used to make this determination? If not, why not?*

**ANSWER:** ONDCP, with its Federal partners, is monitoring the consequences to public health and safety of state laws that legalize marijuana.

We are also in contact with Colorado and Washington and have encouraged them to enhance their ability to track the impacts of their legislation. For example, we have encouraged them to work with their community hospitals to obtain data on marijuana-related emergency department visits to assess the degree to which marijuana use may result in acute health problems. We also have asked that they maintain and make publicly available data on sales and tax receipts for use in econometric analyses of the consumption of marijuana and related consequences.

As sales of state-regulated marijuana and marijuana-containing products began in Colorado in January 2014 and in Washington in July 2014, it is too early to assess the public health and safety impact of such sales in these two states.

Most of the data systems the Government is relying upon to assess the impact of these laws collect data on an annual cycle. In most cases, results for 2014 will not be available until 2015. Neither state has yet to release data from their own data systems on the post-implementation period.

- *It is my understanding that data related to the public health and criminal justice impacts of marijuana legalization in Colorado and Washington State can be culled from a number of existing sources. As the federal agency responsible for national drug control, is ONDCP working with its counterparts to create a singular document that will provide a complete picture of the public health and criminal justice impacts of the laws in these states? If not, why not?*

**ANSWER:** ONDCP and its partners will be collecting and analyzing data for the entire country, for the states in question, and for states that border those that have implemented commercialization programs that increase access to marijuana, to the extent that the data systems permit analysis at the state level.

For example, the Substance Abuse and Mental Health Services Administration's National Survey on Drug Use and Health permits state-level estimates of many variables, including the prevalence of use of marijuana and perceptions of harm and disapproval. These data can be analyzed by age and other demographic variables. The National Highway Traffic Safety Administration's Fatal Analysis Reporting System provides state-level data on fatal traffic crashes, including whether drugs were involved.

ONDCP does not anticipate producing a "singular document" report on the impact on public health and safety of these laws. All of the relevant Federal data systems are on different collection and reporting cycles. ONDCP and its Federal partners will report on the data, including those relevant to assessing the impact of these state marijuana legalization laws, as the data are available for release. This process will provide more timely information on the potential impact of these laws.

4. As Chairman of the Senate Caucus on International Narcotics Control, it is clear to me that the United States needs more effective drug treatment programs. However, experts have stated said that only a fraction of the Americans who show signs of substance abuse get the treatment they need. One of the causes for this gap may be the 16 bed limit on treatment centers that accept Medicaid patients.

- *Do you believe that the 16 bed limit for substance abuse treatment facilities that accept Medicaid patients should be lifted?*

This issue is very important as we work to expand substance use disorder services and increase patient access. A major consideration of whether or not the limit should be lifted is recognizing that the demand for substance use disorder services continues to increase, while the number of providers in many communities is lacking. Given this, the 16-bed patient limit creates a barrier for people to access the care they need to treat their substance use disorders.

People need to have the opportunity to receive the right care at the right time, and in the right setting to treat their substance use disorder. Medicaid beneficiaries with substance use disorders are a vulnerable population, often have low incomes, and have complex chronic illnesses and medical comorbidities needing access to a range of healthcare services. Therefore, efforts to expand, and not limit, services and patient access is critical to address substance use disorders and the health of the people with these disorders across our Nation.

The Centers for Medicare and Medicaid Services (CMS) is conducting a study to assess the impact the 16-bed limit may have on treatment access. A report on the study's findings will be released in the coming months.

In addition to addressing treatment capacity, it is also necessary to establish industry standards for placement, continued stay, and transfer/discharge of patients with substance use disorders and co-occurring conditions. Once standards are formulated and adopted, accrediting and licensing entities need to work with service delivery providers to ensure compliance.

- *While this limit remains in place, is there a way to work administratively to ensure that more Americans who seek treatment receive it?*

To support substance use disorder treatment efforts across the Nation, ONDCP has created and leads an interagency workgroup, the Treatment Coordination Group (TCG). The TCG is charged with the following:

- Coordinating and synchronizing efforts of Federal partners who play a role in supporting the substance use disorder treatment services described in the *National Drug Control Strategy*;
- Increasing comprehension of the landscape of treatment for substance use disorders;
- Ensuring the adoption of quality evidence-based services and systems of care across Federal agencies and contractors;
- Developing and promoting opportunities among Federal partners to expand access to treatment services for substance use disorders;
- Ensuring that agency, programmatic, and interagency data (performance, research, etc.) inform discussions and decisions; and
- Sharing insight and experience to address issues pertaining to treatment for substance use disorders.

The Federal partners in the TCG have agreed to synchronize individual agency efforts to:

- Ensure access to substance use disorder treatment, including medication-assisted treatment, is improved,
- Increase in the quality of treatment services delivered; and
- Have systems in place to monitor adequately the outcome of these services.

Each TCG agency has reported to ONDCP on short-term and long-term activities and progress on expanding access to treatment and on ensuring that people have access to the continuum of recovery and support services.

An example of the efforts of a partner in the TCG is CMS's Medicaid Innovation Accelerator Program (IAP). Based on its work with states and stakeholders, CMS identified substance use disorders as an area of focus for IAP efforts. As part of a strategy to improve the care and outcomes for individuals with substance use disorders, CMS works with states to leverage IAP resources to introduce system reforms that better identify individuals with substance use disorders, expand coverage for effective substance use disorder treatment, and enhance substance use disorder practices delivered to beneficiaries.

Finally, we cannot forget that the Affordable Care Act (ACA) allows expanded access to substance use disorder services. This is a significant change to the way services for substance use disorders can be delivered, which historically has been through a separate delivery system only for the most chronic patients. Full implementation of the ACA gives many more Americans in need of substance use treatment an opportunity to be treated.



AMERICAN BAR ASSOCIATION

Standing Committee on  
the Federal Judiciary

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Please Respond To:

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twells@maynardcooper.com

**VIA EMAIL AND FIRST-CLASS MAIL**

September 22, 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Nomination of Judge Joan Marie Azrack to be a District Court Judge  
For the Eastern District of New York**

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Judge Joan Marie Azrack who has been nominated for a position on the United States District Court for the Eastern District of New York. The Committee, with one recusal, is of the unanimous opinion that Judge Azrack is Well Qualified for this position.

A copy of this letter has been provided to Judge Azrack.

Sincerely

H. Thomas Wells, Jr.  
Chair

HTW,Jr/psr

cc: Hon. Joan Marie Azrack (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via e-mail)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)

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The Honorable Patrick J. Leahy, Chairman  
September 22, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on August 2014.



AMERICAN BAR ASSOCIATION

Standing Committee on  
the Federal Judiciary

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twells@maynardcooper.com

**VIA EMAIL AND FIRST-CLASS MAIL**

September 22, 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Nomination of Loretta C. Biggs to the United States  
District Court for the Middle District of North Carolina**

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Loretta C. Biggs who has been nominated for a position on the United States District Court for the Middle District of North Carolina. The Committee is of the unanimous opinion that Ms. Biggs is Qualified for this position.

A copy of this letter has been provided to Ms. Biggs.

Sincerely

H. Thomas Wells, Jr.  
Chair

HTW,Jr/psr

cc: Ms. Loretta C. Biggs (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via e-mail)  
ABA Standing Committee on the Federal Judiciary (via email)  
Denise A. Cardman, Esq. (via email)



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The Honorable Patrick J. Leahy, Chairman  
September 22, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority  
Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building,  
Washington, DC 20510-6275 on August 2014.



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the Federal Judiciary

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**VIA EMAIL AND FIRST-CLASS MAIL**

September 22, 2014

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Nomination of Elizabeth K. Dillon to be a District Court Judge  
For the Western District of Virginia**

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Elizabeth K. Dillon who has been nominated for a position on the United States District Court for the Western District of Virginia. The substantial majority of the Committee is of the opinion that Ms. Dillon is well qualified for this position, and the minority that she is qualified..

A copy of this letter has been provided to Ms. Dillon.

Sincerely

H. Thomas Wells, Jr.  
Chair

HTW,Jr/psr

cc: Ms. Elizabeth K. Dillon (via email)  
The Honorable W. Neil Eggleston (via email)  
Michael Zubrensky, Esq. (via email)  
ABA Standing Committee on the Federal Judiciary (via email)  
David L. Brown, Esq. (via email)  
Denise A. Cardman, Esq. (via email)

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The Honorable Patrick J. Leahy, Chairman  
September 22, 2014  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on August 2014.



## American Society of Addiction Medicine

4601 NORTH PARK AVENUE • UPPER ARCADE SUITE 101 • CHEVY CHASE, MD 20815-4520  
TREAT ADDICTION • SAVE LIVES

September 4, 2014

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1995-1999

Michael P. Botticelli

Acting Director

Office of National Drug Control Policy

750 17<sup>th</sup> Street, NW

Washington, DC 20503

Dear Mr. Botticelli,

The American Society of Addiction Medicine (ASAM) wishes to congratulate you on your nomination to serve as Director of the Office of National Drug Control Policy (ONDCP). We cannot think of a more deserving and well-qualified individual to lead the Administration's drug policy reformation, including its efforts to educate Americans about the disease of addiction and the benefits of prevention, clinically-based treatment and recovery support services.

ASAM has been a long-time supporter of and partner to ONDCP, particularly under your leadership. We look forward to our continued collaboration with you and your staff. Please let us know how we can support the agency and its goals going forward.

Sincerely,

Stuart Gitlow, MD, MBA, MPH, FAPA  
President, American Society of Addiction Medicine

Cc:

Barack Obama, President of the United States of America  
Joseph Biden, Vice President of the United States of America  
Patrick J. Leahy, Chairman, Senate Judiciary Committee  
Chuck Grassley, Ranking Member, Senate Judiciary Committee  
David Mineta, Deputy Director, Demand Reduction, ONDCP  
Marilyn Quagliotti, Deputy Director, Supply Reduction, ONDCP  
Mary Hyland, Acting Deputy Director, State, Local and Tribal Affairs, ONDCP

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Robert L. L. Morrison

September 9, 2014

Senator Patrick Leahy  
Chairman, Senate Judiciary Comm.  
437 Russell Senate Office Bldg  
Washington, DC 20510

Senator Charles Grassley  
Ranking Member, Senate Judiciary Comm.  
135 Hart Senate Office Bldg  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

We are writing to express our enthusiastic support for the nomination of Acting Director of the Office of National Drug Control Policy (ONDCP) to serve as the permanent Director of ONDCP. We are hopeful that the Committee will soon consider this important nomination and recommend action that will lead to a quick confirmation process. We believe Acting Director Botticelli's knowledge, skills, and experience are aligned with the goals set forth in the President's Drug Strategy.

Mr. Botticelli's ability to effectively coordinate cross-agency policy initiatives is extremely important at this critical juncture in history. The recent increase in mortality due to overdose from prescription drug misuse and heroin serves as an important reminder of the need for Mr. Botticelli's leadership. Specifically, there were over 16,600 deaths caused by opioid pain relievers in 2010 and another 3,000 deaths caused by heroin during the same year (CDC). The misuse of prescription drugs was responsible for 475,000 emergency room visits in 2009 – double the number of visits in 2004 (CDC). Overall, the number of Americans dependent on heroin doubled from 2002 to 2012 (SAMHSA). A 2014 report by NASADAD found that 37 States saw increases in admissions to treatment for heroin addiction over the past two years (NASADAD).

Although we face intense challenges, Acting Director Botticelli has already provided important leadership on opioid issues during his tenure. Acting Director Botticelli's success is based in part on his ability to work collaboratively with other sectors representing criminal justice, education, interdiction, prevention, and others. In addition, as a person in long-term recovery, Mr. Botticelli knows first-hand the challenges associated with addiction and the benefits of a comprehensive continuum of care.

Previously, Mr. Botticelli served as Director of the Bureau of Substance Abuse Services in Massachusetts. In this capacity, he provided policy, programmatic, and regulatory guidance for the provision of substance abuse prevention, treatment, and recovery services in the State – including those issues pertaining to heroin and prescription drug abuse. In Massachusetts, Mr. Botticelli successfully focused on results by emphasizing efficient, effective, and coordinated service delivery. Further, Mr. Botticelli promoted the use of data to enhance performance and increase accountability. Finally, Mr. Botticelli has extensive knowledge of federal and State substance abuse financing systems.

Mr. Botticelli has been recognized as a leader at the national level as well. For example, he has served in a variety of leadership roles within NASADAD, including: member of NASADAD's Board of Directors, member of the Executive Committee, member of the

Public Policy Committee, and much more. At the federal level, Mr. Botticelli has served on the Advisory Committee to the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP), as an Advisor to the National Action Alliance on Suicide Prevention, and others. Finally, Mr. Botticelli has been recognized for his work by winning numerous awards – including NASADAD's Service Award (2011), the National Treatment Network Service Award (2011), the Massachusetts Nurses Association Human Needs Service Award (2011), the Ramstad-Kennedy Award (2008), and many more.

In sum, we strongly support the confirmation of Mr. Michael Botticelli to serve as the permanent Director of ONDCP. We look forward to working with you as the confirmation process moves forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Morrison". The signature is fluid and cursive, with the first name "Robert" written in a larger, more prominent script than the last name "Morrison".

Robert Morrison  
Executive Director, NASADAD  
202-293-0090  
[rmorrison@nasadad.org](mailto:rmorrison@nasadad.org)

CC: Senate Judiciary Committee Members  
Senator Richard Blumenthal  
Senator Christopher Coons  
Senator John Cornyn  
Senator Ted Cruz  
Senator Richard Durbin  
Senator Dianne Feinstein  
Senator Jeff Flake  
Senator Al Franken  
Senator Lindsey Graham  
Senator Orrin Hatch  
Senator Mazie Hirono  
Senator Amy Klobuchar  
Senator Michael Lee  
Senator Charles Schumer  
Senator Jeff Sessions  
Senator Sheldon Whitehouse

**PHOENIX MULTISPORT**

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September 10, 2014

U.S. Senate Majority Office: [info@judiciary-dem.senate.gov](mailto:info@judiciary-dem.senate.gov)  
U.S. Senate Minority Office: Fax to 202 224 9102

TO: The United States Senate Judiciary Committee

RE: Confirmation of Mr. Michael Botticelli, as Director of the White House Office of National Drug Control Policy (ONDCP).

Dear Honorable Members of the United States Senate Judiciary Committee:

As the National Executive Director and Founder of Phoenix Multisport, a nonprofit helping those in recovery from substance abuse, I strongly support the nomination and confirmation of Michael Botticelli as the Director of the White House Office of National Drug Control Policy.

It was an honor to have the opportunity to meet with Mr. Botticelli a few months ago at the White House and take part in the "Advocates for Action Roundtable," where we discussed ways to reform drug policy in America, find solutions to help combat drug addiction and discuss successful programs for long term recovery. Because Mr. Botticelli understands addiction and recovery on a personal level, he understands the need for treatment and recovery support, and that it is not a one size fits all answer.

I've been sober for over 17 years and since founding Phoenix Multisport in 2007, over 14,000 individuals have taken part in our free programs and activities in Colorado. Phoenix Multisport is an active, sober, community for individuals in recovery from substance abuse and for those who choose to live sober. We were pleased when former Director Gil Kerlikowske visited our Denver facility and saw firsthand the positive affect our program is having in so many lives.

Michael Botticelli recognizes the cost of addiction in our families and communities and that we must find ways to help those who are suffering. As we search for new ideas on substance abuse prevention and learn new ways that support long term recovery, I feel that Mr. Botticelli will bring a wealth of information to help fight the battle of addiction in America. Mr. Botticelli is a proven leader and will serve the Office of National Drug Control Policy well.

Thank you for your time and consideration.

Most sincerely,

Scott Strobe  
National Executive Director and Founder  
Phoenix Multisport

2239 Champa Street  
Denver, Colorado 80205  
[www.phoenixmultisport.org](http://www.phoenixmultisport.org)



September 11, 2014

The Honorable Patrick Leahy  
 Chairman, Senate Judiciary Committee  
 Dirksen Senate Office Building, SD-224  
 Washington, DC 20510

The Honorable Chuck Grassley  
 Ranking Member, Senate Judiciary Committee  
 Dirksen Senate Office Building, SD-152  
 Washington, DC 20510

Dear Chairmen Leahy and Ranking Members Grassley:

On behalf of the 750,000 staff treating 8 million people served by our 2,250 member organizations of the National Council for Behavioral Health, I am writing to urge you to swiftly confirm Mr. Michael Botticelli as Director of the Office of National Drug Control Policy (ONDCP). ONDCP needs a leader that can successfully and competently implement the National Drug Control Strategy thus reducing the impact of drugs on communities across this great country. The National Council for Behavioral Health firmly believes that Mr. Botticelli is ably qualified to lead this important task.

Drug use affects every sector of society, straining our economy, our healthcare and criminal justice systems, and endangering the futures of young people. The recent spread of opioid and heroin addiction and death by overdose has made the critical tasks of prevention, treatment and interdiction of paramount importance to every community across our country.

Mr. Botticelli has an impressive career in the field of substance use prevention and treatment that has resulted in a unique combination of experience, vision, and passion that would benefit our nation. He served with distinction as the Director of Substance Abuse Services in Massachusetts, an experience that has provided him with extensive knowledge of federal and state substance abuse prevention and treatment systems. During his tenure as Acting Director of ONDCP, Mr. Botticelli has amply demonstrated his fitness to take on the permanent Director role.

The National Council for Behavioral Health strongly supports the nomination of Mr. Michael Botticelli to serve as the Director of ONDCP. We look forward to swift confirmation of his nomination.

Sincerely,

Linda Rosenberg, MSW, CSW  
 President and CEO



# NACCHO

National Association of County & City Health Officials

The National Connection for Local Public Health

September 16, 2014

Senator Patrick Leahy  
Chairman  
Senate Judiciary Committee  
437 Russell Senate Office Building  
Washington, DC 20510

Senator Charles Grassley  
Ranking Member  
Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

On behalf of the National Association of County and City Health Officials (NACCHO), I write in support of the nomination of Michael Botticelli to serve as the permanent Director of the Office of National Drug Control Policy. I hope that the Committee will move this important nomination forward without delay. Acting Director Botticelli possesses the knowledge, skills, and experience necessary to advance the goals of the National Drug Control Strategy.

NACCHO is the voice of the nation's 2,800 local health departments across the country. These city, county, metropolitan, district, and tribal departments work every day to protect and promote health and well-being for all people in their communities. Local health departments are on the front lines of responding to the growing epidemic of heroin and prescription drug opioid abuse, misuse and overdose.

In 2010, there were over 16,600 deaths caused by opioid pain relievers in 2010 and another 3,000 deaths caused by heroin. Overall, the number of Americans dependent on heroin doubled from 2002 to 2012. Local health departments are responding to these challenges, identifying "hot spots" through surveillance and coordinating community partners to raise awareness and educate the public about prevention of opioid abuse and overdose. Local health departments also work to expand access to medications that can reverse opioid overdose, thereby saving lives.

Acting Director Botticelli has a long tenure in the field of governmental substance use prevention and treatment having served as Director of the Bureau of Substance Abuse Services in Massachusetts. As the Acting Director of ONDCP, Mr. Botticelli has provided important leadership on opioid issues and proven his ability to lead the office. His success is based in part on his ability to work collaboratively with other sectors representing criminal justice, education, interdiction, prevention, public health and others.

In closing, NACCHO strongly supports the nomination of Mr. Michael Botticelli to serve as the permanent Director of ONDCP and look forward to swift action to confirm his nomination.

Sincerely,



Robert M. Pestronk, MPH  
Executive Director





September 19, 2014

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
152 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

On behalf of Community Anti-Drug Coalitions of America (CADCA), the more than 5,000 coalitions it represents nationwide, and the 291 members it represents in the states of Vermont and Iowa, I am writing to express our strong support for the President's nomination of Michael Botticelli to serve as Director of the Office of National Drug Control Policy (ONDCP). I urge you to support his swift confirmation.

Mr. Botticelli has a wealth of knowledge and extensive experience in the drug policy field. His tenure as Deputy Director of ONDCP began in November 2012, and he has served as Acting Director since March 2014. In this role, Mr. Botticelli provides efficient and effective coordination of community-based prevention, treatment and recovery programs, while strongly encouraging the development and use of data to enhance performance and increase accountability. His detailed knowledge of both federal and state substance use/abuse financing systems is a unique quality that he will bring to the position as Director.

Throughout his career, Mr. Botticelli has served in a variety of important leadership roles. As the former Director of the Bureau of Substance Abuse Services in Massachusetts, he forged strong partnerships with local, state, and federal law enforcement agencies and stakeholder groups to guide and implement evidence-based prevention and treatment programs. He has also served as a member of the National Association of State Alcohol and Drug Abuse Directors' board of directors.

Mr. Botticelli is a true leader with a strong ability to bring the full range of law enforcement, prevention, treatment and recovery professionals and organizations together to effectively address our nation's drug problems. Please work to ensure Mr. Botticelli's swift confirmation as Director of the Office of National Drug Control Policy. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Arthur T. Dean".

Arthur T. Dean  
Major General, U.S. Army Retired  
Chairman and CEO

cc: Members of the Judiciary Committee

*Building Drug-Free Communities*

Community Anti-Drug Coalitions of America  
625 Slaters Lane, Suite 300, Alexandria, VA 22314  
P 703-706-0560 F 703-706-0565 1-800-54-CADCA cadca.org



1029 N. Royal St Suite 201  
Alexandria, VA 22314  
Phone: 703.575.9400  
Fax: 703.575.9402

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## CHIEF EXECUTIVE OFFICER

West Huddleston

September 24, 2014

The Honorable Patrick Leahy  
Chairman  
U.S. Senate Judiciary Committee  
437 Russell Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
U.S. Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

On behalf of the National Association of Drug Court Professionals (NADCP) and more than 2,800 operational Drug Court programs nationwide, I write to express our support for the nomination of Acting Director of the Office of National Drug Control Policy (ONDCP) to serve as the permanent Director of ONDCP.

Mr. Botticelli's commitment to effectively coordinate cross-agency policy initiatives is imperative at this critical point. The latest reports on drug overdoses and veterans with substance use disorders underscore the need for Mr. Botticelli's leadership. According to the CDC, 113 people die as a result of drug overdose every day in the U.S., and another 6,748 are treated in emergency departments for the misuse or abuse of drugs. According to the Substance Abuse and Mental Health Services Administration, an estimated 1.8 million veterans suffer from a substance abuse problem.

Mr. Botticelli has worked tirelessly for over two decades to expand innovative programs in prevention, intervention, treatment and recovery. Mr. Botticelli is a long time champion of Drug Courts. His work in Massachusetts to help implement and expand Drug Courts has saved the state millions of dollars and has saved countless lives. As Deputy Director of ONDCP, Mr. Botticelli was a national leader and advocate for Drug Courts, DWI Courts and Veterans Treatment Courts helping to advance the field and expand their growth.

NADCP strongly supports the confirmation of Mr. Michael Botticelli to serve as the permanent Director for ONDCP. We look forward to working with you as the confirmation process moves forward.

Sincerely,

West Huddleston  
Chief Executive Officer

cc: United States Senate Judiciary Committee Members





September 26, 2014

Senator Patrick Leahy  
 Chairman  
 U.S. Senate Judiciary Committee  
 437 Russell Senate Office Building  
 Washington, DC 20510

Senator Charles Grassley  
 Ranking Member  
 U.S. Senate Judiciary Committee  
 135 Hart Senate Office Building  
 Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

As the President and CEO of the Partnership for Drug-Free Kids, the nation's premiere organization working to reduce teen substance abuse and support families impacted by addiction, I write to support the nomination of Michael Botticelli to be the Director of the Office of National Drug Control Policy.

Acting Director Botticelli has the necessary knowledge and experience to excel in this position and is widely respected by those in the substance abuse field. In his previous work as the Director of the Bureau of Substance Abuse Services in Massachusetts, Mr. Botticelli was known for being a results-oriented leader who was able to work collaboratively with criminal justice leaders and other key stakeholders to advance his objectives. He has a deep knowledge of federal and state substance abuse financing systems and a thorough understanding of prevention and treatment programs as well as the importance of a comprehensive continuum of care. And as a person in long-term recovery, he projects an important message to families struggling with addiction as proof of hope and recovery.

In his work in Massachusetts, Mr. Botticelli faced the challenges of heroin and prescription drug abuse and helped to develop innovative responses to the crisis in his state. His experience there will serve him well as the entire nation now grapples with the same issues. The challenges of coordinating a myriad of federal agencies to address the opioid crisis are significant but I have full confidence that Mr. Botticelli is more than up to the task, thanks in part to his familiarity with the inherent difficulty of balancing availability of life-saving medication for those who need it with regulation and controls meant to curb abuse.

The Partnership for Drug-Free Kids strongly supports the nomination of Michael Botticelli to service as the Director of ONDCP. Please let me know if we can be of help to you regarding this nomination or any other matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'Stephen', written in a cursive style.

Stephen J. Pasierb  
 President and CEO

RECEIVED OCT 08 2014

**NCADD****NATIONAL COUNCIL ON ALCOHOLISM AND DRUG DEPENDENCE, INC.**

217 Broadway, Suite 712 New York, NY 10007 Tel: 212-269-7797 Fax: 212-269-7510

September 29, 2014

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Chairman, Committee on the Judiciary  
437 Russell Senate Office Building  
Washington, DC 20510The Honorable Charles E. Grassley  
Ranking, Committee on the Judiciary  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

I am writing to express strong support for the nomination of Michael Botticelli to serve as Director of the Office of National Drug Control Policy (ONDCP) on behalf of the National Council on Alcoholism and Drug Dependence, Inc. (NCADD) and our National Network of Affiliates.

Mr. Botticelli's outstanding commitment to prevention, education, treatment and recovery services for alcohol and drug addiction makes him uniquely qualified to assume the role of Director of ONDCP. His success is due to his extensive experience in the field and his proven ability to work collaboratively with agencies related to criminal justice, education, prevention and others. His skill in coordinating across government and community organizations is incredibly important and valuable, given ONDCP's mission.

Mr. Botticelli and his passionate commitment to our cause has been recognized for his leadership roles with the National Association of State Alcohol/Drug Abuse Directors (NASADAD), and also with the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP).

At NCADD, we have been privileged to work with Mr. Botticelli, at both the State and Federal level. We strongly support the nomination of Mr. Michael Botticelli to serve as the next Director of ONDCP.

Sincerely,


Andrew N. Pucher  
President/CEO

**American Psychiatric Association**

1000 Wilson Boulevard  
 Suite 1825  
 Arlington, VA 22209  
 Telephone 703.907.7300  
 Fax 703.907.1085  
 E-mail [apa@psych.org](mailto:apa@psych.org)  
 Internet: [www.psychiatry.org](http://www.psychiatry.org)

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 American Psychiatric Foundation

October 8, 2014

The Honorable Patrick Leahy  
 Chairman  
 Committee on the Judiciary  
 United States Senate  
 224 Dirksen Senate Office Building  
 Washington, DC 20510

The Honorable Charles Grassley  
 Ranking Member  
 Committee on the Judiciary  
 United States Senate  
 224 Dirksen Senate Office Building  
 Washington, DC 20510

Dear Chairman Leahy and Senator Grassley:

On behalf of the American Psychiatric Association, the medical specialty society representing over 35,000 psychiatrist physicians, I write to support the nomination of Michael Botticelli as Director of the White House Office of National Drug Control Policy (ONDCP). Mr. Botticelli joined ONDCP as Deputy Director in 2012 and, upon the departure of former Director Gil Kerlikowske, assumed the role of Acting Director in March of this year.

Mr. Botticelli's career includes a wide variety of leadership roles. He has been recognized by the National Association of State Alcohol and Drug Abuse Directors and others for his countless contributions to the field. He served as a member of the Advisory Committee for the federal Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention and the National Action Alliance for Suicide Prevention. In 2008, Mr. Botticelli received the Ramstad/Kennedy National Award for Outstanding Leadership in Promoting Addiction Recovery.

Prior to coming to ONDCP, Mr. Botticelli was with the Massachusetts Department of Health (MDPH) where he served as Director of the Bureau of Substance Abuse Services for nearly a decade. He worked to expand substance abuse treatment services and oversaw a pilot program expanding access to naloxone to treat opioid overdose.

ONDCP faces significant challenges, including a growing epidemic of prescription drug and heroin abuse. Mr. Botticelli has demonstrated the ability to understand these challenges and to work collaboratively with federal partners, state authorities, and professional associations like the APA to reduce drug use and to promote prevention, intervention, treatment, and recovery services.

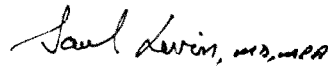


Mr. Botticelli is the right choice to lead ONDCP. He has the requisite background, skills, and abilities to bring about significant improvement in our county's drug policies and to assure that those policies are built on the strong base of scientific evidence. APA asks for your favorable consideration of this nomination.

Sincerely,



Paul Summergrad, MD  
President



Saul Levin, MD, MPA  
CEO and Medical Director



October 8, 2014

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
152 Dirksen Senate Office Building  
Washington DC 20510

On behalf of the Collegiate Recovery Community at the University of Vermont, we are writing in full support of the nomination of Acting Director of the Office of National Drug Control Policy (ONDCP) Michael Botticelli to serve as the permanent Director of ONDCP. We believe Acting Director Botticelli's knowledge, skills, and experience are aligned with the goals set forth in the President's Drug Strategy.

Although we face intense challenges, Acting Director Botticelli has already provided important leadership on opioid issues during his tenure. Acting Director Botticelli's success is based in part on his ability to work collaboratively with other sectors representing criminal justice, education, interdiction, prevention, and others. In addition, as a person in long-term recovery, Mr. Botticelli knows first-hand the challenges associated with addiction and the benefits of a comprehensive continuum of care.

I had the pleasure of meeting Mr. Botticelli at the recent 25<sup>th</sup> anniversary of Recovery Awareness Month in Washington DC. Upon introduction he immediately spoke of the work he's done with Vermont's Department of Health, crediting us with innovative ideas and willingness to make things happen. I felt pride in my State, and respect as he rattled off familiar names and work happening in VT. He was humble in his role, while simultaneously glowing with excitement for the work he gets to do which is so clearly a joy and a passion for him.

In his work in Massachusetts, Mr. Botticelli faced the challenges of heroin and prescription drug abuse and helped to develop innovative responses to the crisis in his state. His experience there will serve him well as the entire nation now grapples with the same issues. The challenges of coordinating a myriad of federal agencies to address the opioid crisis are significant but I have full confidence that Mr. Botticelli is more than up to the task, thanks in part to his familiarity with the inherent difficulty of balancing availability of life-saving medication for those who need it with regulation and controls meant to curb abuse.

In sum, the Collegiate Recovery Community at the University of Vermont strongly supports the confirmation of Mr. Michael Botticelli to serve as the permanent Director of ONDCP. We look forward to working with you as the confirmation process moves forward.

Cc: Members of the Judiciary Committee

University of Vermont • Collegiate Recovery Community  
590 Main Street 112 Davis Center Burlington, VT 05405  
<http://www.uvm.edu/recoverycommunity>  
802.656.0236 • [recoverycommunity@uvm.edu](mailto:recoverycommunity@uvm.edu)





*Member Organizations*

- National Bar Association
- Association of Black Psychologists
- National Association of Black Social Workers, Inc.
- Howard University School of Law
- Congressional Black Caucus Foundation, Inc.
- National Dental Association
- National Black Caucus of State Legislators
- Association of Black Sociologists
- National Black Nurses Association, Inc.
- National Organization of Black Law Enforcement Executives
- National Association of Blacks in Criminal Justice
- National Black Alcoholism & Addictions Council, Inc.
- Black Administrators in Child Welfare, Inc.
- Association of Black Health-System Pharmacists
- National Medical Association
- National Black Police Association
- National Alliance of Black School Educators
- National Institute for Law and Equity
- National Conference of Black Political Scientists
- Black Psychiatrists of America, Inc.
- National Black Prosecutors Association
- National Organization of African Americans in Housing
- Thurgood Marshall Action Coalition

November 11, 2014

The Honorable Patrick Leahy  
 Chairman  
 Committee on the Judiciary  
 United States Senate  
 224 Dirksen Senate Office Building  
 Washington, D.C. 20510

The Honorable Charles Grassley  
 Ranking Minority Member  
 Committee on the Judiciary  
 United States Senate  
 224 Dirksen Senate Office Building  
 Washington, D.C. 20510

Dear Chairman Patrick Leahy and Ranking Member Charles Grassley:

As Vice President of Administration and the National Executive Director of the National African American Drug Policy Coalition, Inc. and its National Spokesperson, we are writing to express our strongest support for Michael Botticelli's nomination to serve as Director of the Office of National Drug Control Policy (ONDCP) and we urge that the Senate Judiciary Committee expeditiously hold his confirmation hearing and recommend to the Senate he be confirmed for this most important position especially during this controversial time of the movement towards decriminalization and legalization of marijuana and how we deal with drug offenses in general in this Nation.

As the lead representative of the National African American Drug Policy Coalition, Inc. during the past three (3) years I have had many occasions to interact with him and to discuss policy matters. I know that he is deeply committed to a public health approach to dealing with addiction and drug dependency and related mental and emotional problems of such individuals, and that his passion and commitment to make all possible resources available to support treatment, but at the same time not to compromise the need for strong law enforcement against those individuals who prey on the weaknesses of these individuals and profiteer on increasing the number of addicted individuals and debilitating more and more weak individuals who fall prey to their messaging and pushing distribution in poor neighborhoods taking advantage of their depression and frustrations.

I am more than confident that he fully shares the view that those persons who profiteer on the weaknesses of such persons should be prosecuted to the maximum extent allowed by the law. We are also confident that he strongly supports the effective work of Drug Courts and Veterans Drug Courts and would desire that even more financial support could be provided to these courts during this time of economic constraints and restrictions on how much debt this Nation can support.

Letter to Senator Patrick Leahy, Chairman, Senate Committee on the Judiciary and  
Senator Charles Grassley, Ranking Minority Member, Senate Judiciary Committee,  
United States Senate


Dated November 11, 2014

Page 2

We can say with the utmost confidence and without reservation that the National African American Drug Policy Coalition, Inc. and its Member Organizations strongly and unequivocally support the nomination of Michael Botticelli and that he endeavors to achieve that right balance between treatment for the victims of drug addiction and dependency and strong and effective law enforcement action against all person who endeavor to profiteer on these weaknesses and take advantage of them for their own financial gain.

We, without reservation, urge his prompt confirmation hearing and confirmation by the United Senate so that he may move forward with a most effective and expeditious operation of the Office of National Drug Control Policy,

Sincerely,



Arthur L. Burnett, Sr.

Vice President of Administration  
& National Executive Director

RECEIVED OCT 24 2014



October 13, 2014

**Ben McAdams**  
Salt Lake County Mayor

**Nichole Dunn**  
Deputy Mayor &  
Chief Administrative Officer

The Honorable Patrick J. Leahy  
The Honorable Charles E. Grassley  
United States Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, D.C. 20510-6050

Dear Chairman Leahy and Ranking Member Grassley:

I am writing in support of Michael Botticelli, acting Director of the Office of National Drug Control Policy (ONDCP) to be confirmed as the permanent Director. I've met with him here in Salt Lake County and was impressed with how well informed he is regarding the issues we face. My staff in the Division of Behavioral Health has worked directly with Mr. Botticelli on prescription drug abuse as well as methamphetamine abuse in his role at ONDCP.

When I met with Mr. Botticelli here in Salt Lake last year, I was impressed with his grasp of national issues related to drug control and addiction issues. His experience working at the local level is also important to me. I have the statutory responsibility to administer all of the public substance use disorder treatment and preventative care services. I also am the chair of our Criminal Justice Advisory County which is our county version of ONDCP. Having this responsibility has made me all the more aware of the value of having people like Mr. Botticelli in the role of permanent director of ONDCP.

As a dedicated and informed public servant, he would serve our county well as the permanent director of ONDCP. My staff and I would urge your support of his confirmation. We will also let Senator Orrin Hatch know of our support.

Please feel free to contact me if I can provide any further information. Thank you.

Sincerely,

Ben McAdams, Mayor  
Salt Lake County

CC: Senator Orrin Hatch



October 15, 2014

The Honorable Patrick Leahy  
Chairman  
U.S. Senate Judiciary Committee  
437 Russell Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
U.S. Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, DC 20510

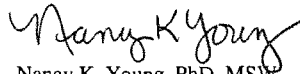
Dear Chairman Leahy and Ranking Member Grassley:

It is with great enthusiasm that I am writing to express support for the nomination of Mr. Michael Botticelli, Acting Director of the Office of National Drug Control Policy (ONDCP) to serve as the permanent Director of ONDCP.

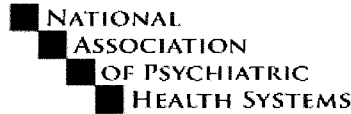
While serving as the Director of the Bureau of Substance Abuse Services at the Massachusetts Department of Public Health, Mr. Botticelli approached our organization with the iron determination to institute innovative changes within the child welfare system for families affected by substance use disorders. Through his collaborative efforts and tireless commitment to these families, Massachusetts was able to dedicate counselors and staff with an expertise in substance use disorders to the State's child welfare offices. Mr. Botticelli's thorough understanding of substance use disorders and prevention and treatment programs, coupled with his experience working with federal and state financing systems and his proven track record to effectively collaborate with partners at the federal and state level, is reflective of the essential skills and background needed to lead ONDCP in overcoming the challenges our nation faces.

Acting Director Botticelli serves as a symbol of hope while projecting the far-reaching message to families struggling with addiction that recovery is possible. We strongly support the confirmation of Mr. Michael Botticelli to serve as the permanent Director of ONDCP and look forward to his confirmation.

Sincerely,



Nancy K. Young, PhD, MSW  
Executive Director



ADVOCATING FOR BEHAVIORAL HEALTH

500 17th Street, NW, Suite 420, Washington, DC 20005-2507 • PH: 202/463-6700 • FX: 202/753-6041 • [naphs@naphs.org](mailto:naphs@naphs.org) • [www.naphs.org](http://www.naphs.org)

October 16, 2014

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Senator Grassley:

The National Association of Psychiatric Health Systems (NAPHS), representing more than 700 hospitals and behavioral health treatment organizations who serve people of all ages, strongly supports the nomination of Michael Botticelli as Director of the White House Office of National Drug Control Policy (ONDCP).

Mr. Botticelli joined ONDCP as Deputy Director in 2012 and, assumed the role of Acting Director in March. He has done an outstanding job as Acting Director and that experience will be very helpful going forward.

Mr. Botticelli has extensive background at the state level working with the Massachusetts Department of Health (MDPH) where he served as Director of the Bureau of Substance Abuse Services for nearly a decade. His worked to expand substance abuse treatment services provides him with all the essential tools needed to run our national drug policy.

Mr. Botticelli has the broad experience and ability to work across the aisle to achieve results that will lead to improving care for millions of Americans. He is the right candidate to lead ONDCP now, and we encourage the Senate Judiciary Committee and full Senate to approve his nomination in an expeditious manner to face the nation's epidemic of prescription drug and heroine abuse.

Sincerely

Mark Covall  
President and CEO



200 Olcott Drive  
White River Junction, VT 05001  
vtrecoverynetwork@gmail.com  
www.vtrecoverynetwork.org  
802-738-8998

October 17, 2014

Senator Patrick Leahy  
Chairman, Senate Judiciary Comm.  
437 Russell Senate Office Bldg  
Washington, DC 20510


Dear Senator Leahy,

I am writing on behalf of Vermont's 11 community recovery centers in St. Johnsbury, Barre, White River, Springfield, Brattleboro, Bennington, Rutland, Middlebury, Burlington, Saint Albans and Morrisville. The center representatives that constitute Vermont Recovery Network understand that Michael Botticelli has been nominated to serve as the permanent Director of ONDCP. We want to express our enthusiastic support for the work Michael Botticelli has done both before and after taking on his new role as the acting Director of the Office of National Drug Control Policy. We are writing to encourage you and your committee to consider this important nomination favorably and support a prompt confirmation.

Mr. Botticelli's ability to effectively coordinate cross agency policy initiatives is extremely important at this critical juncture in history. His ability to work collaboratively across different sectors of government was demonstrated in Massachusetts where he bridged the cultural divides that separate criminal justice, healthcare, education, interdiction, addiction treatment, and prevention. American justice and healthcare costs continue to increase, driven by untreated addictions. Medical professionals have begun to acknowledge that in order to address the chronic nature of addictive disease, we need to provide ongoing recovery support services as we do with other chronic conditions such as cancer, diabetes, and heart conditions. Until people can be helped to stop using, they'll continue to drive up healthcare and justice costs.

Mr. Botticelli's vision and abilities are currently being directed at curbing these costs. He has been exploring ways to expand the use of programs provided by Vermont's recovery services system. He understands the value of Vermont's Rapid Intervention programs and other addiction related solutions that connect justice programs with treatment and recovery, such as those being developed by Rutland's Vision Project. I know that you are aware of how well these programs are working, but do not know whether you are aware of his efforts toward expanding on these specific Vermont based successes.

Sincerely yours,

  
Mark A Ames  
Coordinator,  
Vermont Recovery Network

October 23, 2014

Dear Chairman Leahy and Ranking Member Grassley:

On behalf of the undersigned groups representing our nation's health and social services system, we are writing in support of the nomination of Acting Director of the Office of National Drug Control Policy (ONDCP) to serve as the permanent Director of ONDCP. We believe Acting Director Botticelli's knowledge, skills, and experience are aligned with the goals set forth in the President's Drug Strategy.

As you know, addiction intersects with a myriad of other public health issues such as heart disease, HIV/AIDS, Hepatitis C, liver damage, and prenatal conditions. In addition, we know substance use disorders are connected with devastating societal problems such as child abuse/neglect, domestic violence, homelessness, and others.

The good news is that there are effective strategies available to help prevent, to treat, and to help people sustain recovery from substance use disorders. As a result, Mr. Botticelli's proven ability to effectively coordinate cross-agency policy initiatives is critical.

The current opioid epidemic is an important example of a problem requiring leadership using this cross-disciplinary approach. The nation witnessed over 16,600 deaths caused by opioid pain relievers in 2010 and another 3,000 deaths caused by heroin during the same year (CDC, 2011). The misuse of prescription drugs was responsible for close to 500,000 emergency room visits in 2011 – representing an increase of 183 percent since 2004 (SAMHSA, 2011). Further, the number of Americans dependent on heroin doubled from 2002 to 2012 (SAMHSA) and the number of admissions to treatment for opioid pain relievers increased 500 percent from 2000 to 2010.

As organizations working in the field of public health and social services, we recognize Acting Director Botticelli's work with a diverse set of stakeholders to address these and other issues. Acting Director Botticelli's success is based in part on his ability to work collaboratively not only with the health community, but also with other sectors representing criminal justice, education, interdiction, prevention, and others.

In sum, we strongly support the confirmation of Mr. Michael Botticelli to serve as the permanent Director of ONDCP. We look forward to working with you as the confirmation process moves forward.

Sincerely,

Alliance for Children and Families

American Association for the Treatment of Opioid Dependence

American College of Occupational and Environmental Medicine

American Group Psychotherapy Association

American Psychiatric Association

American Psychological Association

American Society of Addiction Medicine

Association of Ambulatory Behavioral Healthcare  
Association for Behavioral Health and Wellness  
Association of Recovery in Higher Education  
Association of Recovery Schools  
Center for Children and Family Futures  
Child Welfare League of America  
Coalition on Physician Education in Substance Use Disorders  
Community Anti-Drug Coalitions of America  
Entertainment Industries Council  
Faces and Voices of Recovery  
Harm Reduction Coalition  
International Certification and Reciprocity Consortium  
Legal Action Center  
Mothers Against Drunk Driving  
NAADAC – The Association for Addiction Professionals  
National Alliance for Model State Drug Laws  
National Alliance of State and Territorial AIDS Directors  
National Alliance on Mental Illness  
National Association of Addiction Treatment Providers  
National Association for Children of Alcoholics  
National Association of County and City Health Officials  
National Association of County Behavioral Health and Developmental Disability Directors  
National Association of Drug Court Professionals  
National Association for Rural Mental Health  
National Association of Psychiatric Health Systems  
National Association of Social Workers



National Association of State Alcohol and Drug Abuse Directors

National Association of State Mental Health Program Directors

National Child Abuse Coalition

National Council for Behavioral Health

National Council on Problem Gambling

National Council on Alcoholism and Drug Dependence

National Organization on Fetal Alcohol Syndrome

National Safety Council

National TASC

Partnership for Drug-Free Kids

Treatment Communities of America

Trust for America's Health



**National District Attorneys Association**  
 99 Canal Center Plaza, Suite 330, Alexandria, Virginia 22314  
 703-549-9222 / 703-836-3195 Fax  
[www.ndaa.org](http://www.ndaa.org)

October 30, 2014

The Honorable Patrick Leahy  
 Chairman  
 Senate Judiciary Committee  
 437 Russell Senate Office Building  
 Washington, DC 20510

The Honorable Charles Grassley  
 Ranking Member  
 Senate Judiciary Committee  
 135 Hart Senate Office Building  
 Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley,

On behalf of the National District Attorneys Association (NDAA), representing 2500 elected and appointed District Attorneys across the United States as well as 40,000 assistant district attorneys, I write in support of Michael Botticelli's nomination to be the permanent director of the Office of National Drug Control Policy (ONDCP). Although supportive of Mr. Botticelli's nomination, our membership continues to express concerns over the Administration's positions and approach when it comes to broader drug policy issues.

In recent years, we have had public disagreement with the Administration on drug enforcement policy, including the decision by the Department of Justice (DOJ) not to sue the states of Colorado and Washington over their statewide initiatives related to marijuana use and possession. The Department's issuance of eight enforcement areas regarding marijuana have also proven difficult to execute as we have seen interdiction of marijuana in surrounding states, increased emergency room visits by youth, and complex issues with the labeling of edible marijuana.

Additionally, as the use of heroin has skyrocketed across the country and the abuse of prescription drugs remains a serious problem, increased emphasis has been placed on treatment of substance abuse disorders and ensuring proper access to drug treatment programs in the community. While treatment is absolutely an integral part of the response to drug addiction, we are pleased that someone has been nominated to lead ONDCP who recognizes that treatment has to be balanced with vigorous enforcement of the law. While with the Massachusetts Department of Public Health, Mr. Botticelli saw the damage caused by dealers and traffickers pushing large quantities of drugs and helped to develop and foster relationships with the law enforcement and drug treatment communities to create a holistic approach to the problem.

We greatly appreciate Mr. Botticelli and his staffs' outreach and their commitment to working with NDAA to ensure that prosecutors from across the country are heard on important drug policy issues facing our families and communities. He clearly respects the views of state and local prosecutors who are in the fight daily to protect our citizens and promote public safety. We look forward to supporting his nomination through the confirmation process.

Respectfully,

A handwritten signature in black ink, appearing to read "Michael Moore".

Michael Moore  
 President  
 National District Attorneys Association





9219 Willard Court  
Urbandale, Iowa  
50322

Phone: 515-270-6509  
Email: [janzwick@aol.com](mailto:janzwick@aol.com)

November 2, 2014

Senator Patrick Leahy  
Chairman, Senate Judiciary Comm.  
437 Russell Senate Office Bldg  
Washington, DC 20510

Senator Charles Grassley  
Ranking Member, Senate Judiciary Comm  
437 Russell Senate Office Bldg  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

I am writing to express my enthusiastic support for the nomination of Mr. Michael Botticelli, Acting Director of the Office of National Drug Control Policy (ONDCP) to serve as the permanent Director of ONDCP.

As the former Deputy Director of the Iowa Department of Public Health and Iowa's state alcohol and drug abuse director I had numerous opportunities to work with Mr. Botticelle when he was the Director of the Bureau of Substance Abuse Services in Massachusetts. I was impressed with his ability to provide policy and programmatic guidance for the substance abuse prevention, treatment and recovery programs in the state of Massachusetts. He emphasized results and utilized data to enhance performance and accountability in the state. His unique combination of experience, both personal and career wise will be beneficial in implementing the National Drug Control Strategy. His knowledge, skills and experience are aligned with the goals of the President's Drug Strategy.

Mr. Botticelli is also recognized as a leader on the national level. He served on the Advisory Committee to the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP), as an Advisor to the National Action Alliance on Suicide Prevention, and other advisory committees. Additionally he was actively involved with the National Association of State Alcohol and Drug Abuse Directors (NASADAD).

I strongly support his nomination and urge the committee to swiftly act on his confirmation.

Sincerely,

A handwritten signature in cursive script that reads 'Janet Zwick'.

President, Zwick Healthcare Consultants, LLC



**ALCOHOL & DRUG DEPENDENCY SERVICES**  
of Southeast Iowa

Lincoln Center  
1340 Mt. Pleasant St.  
Burlington, Iowa 52601  
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11/3/14

Senator Patrick Leahy  
Chairman  
Judiciary Committee  
United States Senate  
437 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Leahy:

I am writing to urge your support of Mr. Michael Botticelli to become the Director of the Office of National Drug Control Policy (ONDCP).

I am familiar with Mr. Botticelli's outstanding work as the ONDCP Acting Director as well as his work as the Director of the Bureau of Substance Abuse Services in Massachusetts. His skillful use of research data to drive programming in substance abuse prevention, treatment and recovery has defined the use of data in our field. He is results driven and represents the kind of leadership we need in this field.

I strongly support the nomination of Mr. Botticelli and urge his confirmation.

Sincerely,

Richard R. Swanson, Ph.D.  
Executive Director



November 4, 2014

The Honorable Patrick Leahy  
Chair  
Senate Judiciary Committee  
437 Russell Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking member  
Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Senators Leahy and Grassley:

We, the undersigned groups, representing state and local elected officials, criminal justice systems, and practitioners, write in support of the nomination of Michael Botticelli to become permanent Director of the Office of National Drug Control Policy (ONDCP). Mr. Botticelli has distinguished himself while in the role of Acting Director at ONDCP. He provides sound leadership on the multi-faceted issues of drug abuse prevention and treatment and the enforcement of crimes of the trafficking in drugs.

As Deputy Director and, now, as Acting Director of ONDCP, Mr. Botticelli has helped to shape the Obama Administration's National Drug Control Strategy, the Administration's blueprint for ending drug abuse and drug-related crimes. The annual document sets out the Administration's strategy for disrupting and suppressing drug trafficking organizations that foster a culture of gang violence, flood our neighborhoods with narcotics and other illegal drugs, and prey on our children. Under Acting Director Botticelli's leadership, the National Strategy also puts increasing priority on the prevention of drug abuse and treatment for those who abuse drugs. This vibrant three-pronged strategy is helping to break down barriers across government agencies and among non-profit service providers so that policymakers and practitioners are able to more effectively identify and deploy tools and approaches that work to reduce drug abuse and drug-related crimes.

Acting Director Botticelli's compelling personal story of addiction and recovery is a powerful testament to those working to fight addiction and end the scourge of drugs in our communities. He is the right person at the right time to lead ONDCP. We support his nomination as permanent Director with enthusiasm.

Thank you for considering our views.

Sincerely,

*National Criminal Justice Association  
Major Cities Chiefs Association  
United States Conference of Mayors  
Council of Juvenile Correctional Administrators  
Pretrial Justice Institute  
Association of Prosecuting Attorneys  
Police Foundation  
TASC Illinois*

# FACES VOICES

—  
November 5, 2014

The Honorable Patrick Leahy  
Chairman, Committee on the Judiciary  
U.S. Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member, Committee on the Judiciary  
U.S. Senate  
152 Dirksen Senate Office Building  
Washington, DC 201510

Dear Mr. Chairman and Mr. Ranking Member:

On behalf of Faces & Voices of Recovery (FAVOR), I am writing in strong support of the nomination of Acting Director of the Office of National Drug Control Policy (ONDCP) to serve as the permanent Director of ONDCP. We believe Acting Director Botticelli's knowledge, skills, and experience are aligned with the goals set forth in the President's Drug Strategy.

Throughout his tenure as Acting Director of ONDCP, Mr. Botticelli has worked tirelessly on behalf of those in or seeking recovery from addiction. As you know, addiction recovery reduces devastating societal problems such as overburdened criminal justice systems, domestic violence, homelessness and child welfare. In addition, we know addiction recovery is associated with better outcomes in the treatment of HIV/AIDS, Hepatitis C, liver damage, and prenatal conditions.

Mr. Botticelli understands the importance of prevention, treatment, and recovery in reducing associated health and societal problems. He continues to effectively coordinate cross-agency policy initiatives, and has proven to successfully work productively with other agencies.

As an organization in the recovery community who works in the field of public health and recovery support services, we applaud Acting Director Botticelli's work, often with a diverse set of stakeholders, to address important issues regarding substance use disorders. Acting Director Botticelli's success is based in part on his ability to work collaboratively not only with the health community, but also with other sectors representing criminal justice, education, interdiction, prevention, and others.

A permanent leader of ONDCP is particularly critical at this time as our nation faces an unprecedented number of needless deaths related to opioids and other drugs. Faces and Voices of Recovery respectfully requests the swift confirmation of Mr. Michael Botticelli to serve as the permanent Director of ONDCP.

Sincerely,



Richard Buckman  
Acting Board Chair, Faces & Voices of Recovery

1010 Vermont Avenue NW, Suite 618 • Washington, DC 20005  
202.737.0690 • Fax: 202.737.0695

[www.facesandvoicesofrecovery.org](http://www.facesandvoicesofrecovery.org)

# National Association for Children of Alcoholics



... working to eliminate the adverse impact of alcohol and drug use on children and families

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Lawrence M. Hecker, Esq.

November 7, 2014

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

We are writing today to express our strong support for Michael Botticelli's nomination to serve as Director of the Office of National Drug Control Policy (ONDCP) and our strong hope that your committee will move this nomination swiftly through the confirmation process.

Our organization speaks for the 1 in 4 children living in families at high risk for addiction, providing help when parental substance use disorders create havoc for the whole family, resulting in huge costs to the health care system, the courts and corrections system, and harm to the greater society, affecting our schools, our neighborhoods and our communities.

Michael Botticelli has a deep knowledge of the multi-faceted drug use and addiction issues that harm our children and families. He has a rich history of effectively bringing together the critical stakeholders across the prevention, intervention, treatment and recovery support spectrum to address those issues. In addition to this broad knowledge and experience, he has brought to his current role of Acting Director of ONDCP a contagious and engaging leadership style that is permeated with a healthy passion and enthusiasm for the mission of ONDCP's work for the needs of the American citizen. He understands that prevention of drug abuse problems belongs to all -- the American family, the schools, the faith community, the helping professions -- and intuitively leads in ways that strengthens and empowers all of us in our legitimate roles.

We and our 45 affiliate organizations across the country urge you to give Mr. Botticelli's nomination careful consideration so that we can be assured of his strong and passionate leadership as ONDCP Director in the near future. Thank you.

Sincerely,

Sis Wenger  
President/CEO

Gary M. Weiss, MD  
Board Chairman





# Northeastern University School of Law

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

November 9, 2014

Dear Chairman Leahy and Senator Grassley:

I am writing to express my strongest support for the nomination of Acting Director Michael Botticelli to serve as permanent Director of the Office of National Drug Control Policy.

In my role as an academic researcher at the interface of law and public health with special expertise in substance abuse, I have worked closely with agencies at the federal, state, and local levels. I also frequently assist faith-based and other community groups working to address addiction. My work has specifically focused on the opioid overdose crisis for the last decade.

Since the start of his tenure, I have been particularly impressed with Acting Director Botticelli's detailed understanding of opioid overdose and his unrelenting dedication to curbing the epidemic. As a consultant to the US Department of Justice, I have had the honor of observing first-hand Mr. Botticelli's ability to catalyze federal action, especially in building synergy between different agencies. His detailed understanding of the science and policy elements of the problem, combined with hands-on approach have also led to swift success in marshaling federal assets to build state and local capacity to fight opioid overdose and other drug problems. In the short time that Mr. Botticelli has been at the helm of ONDCP, he has produced measurable results both by skillfully managing the work of the Office, as well as by informing and inspiring effective action by other governmental and non-governmental entities. By publically acknowledging his experience as a person in recovery, Mr. Botticelli has also shown tremendous courage, giving hope to millions of Americans struggling with addiction.

In closing, I would like to reiterate my strong support for Acting Director Michael Botticelli and urge the Committee to advance his nomination as Director of ONDCP.

Sincerely,

A handwritten signature in black ink that reads "Leo Beletsky".

Leo Beletsky, JD, MPH  
Assistant Professor of Law and Health Sciences  
School of Law & Bonivé College of Health Sciences  
Northeastern University

November 10, 2014

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Senator Grassley:

As the state of North Carolina's former Injury Epidemiologist (retired 2007) and the person who initiated North Carolina's public health's response to its epidemic of fatal overdoses primarily from prescription pain medication in 2002, directed a statewide task force to provide the NC Department of Health and Human Services that generated over fifty recommendations on how to prevent these deaths, facilitated the passage of enabling legislation for the state's prescription drug monitoring program (the Controlled Substances Reporting System) and its Good Samaritan Law (SB20, 2013), a co-founder for the nationally recognized drug overdose prevention program, Project Lazarus, and a mentor and teacher for the N.C. Harm Reduction Coalition, **I am writing to indicate my unqualified support for the nomination of Acting Director Michael Botticelli to serve as permanent director of the Office of National Drug Control Policy.**

I have provided this lengthy description of my background, not to brag, but to demonstrate my deep understanding of the ravages that the misuse and abuse of prescription opioid-based pain medications, as well as the abuse of heroin, are having on not only the residents of North Carolina, but on all residents in our country.

Like his predecessor at ONDCP, Mr. Botticelli is deeply familiar with the challenges of the opioid epidemic. During his tenure at ONDCP, Mr. Botticelli has successfully reached out across sectors and a broad range of stakeholders to advance solutions to the opioid epidemic. Based on my experience in North Carolina and many other states, having Mr. Botticelli at the helm of ONDCP is exactly the kind of leadership that could continue to support those of us at the local and state levels who are working tirelessly to reduce the ravages from prescription and street drugs.

I urge the Committee to act swiftly to advance his nomination as Director of the Office of National Drug Control Policy.

Sincerely,

*Catherine (Kay) Sanford, MSPH*

Injury Consultant

--

Kay

Catherine (Kay) Sanford  
Telephone: 919.937.9357  
Email: [kay.sanford@gmail.com](mailto:kay.sanford@gmail.com)

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November 10, 2014

Senator Patrick Leahy  
Chairman,  
Senate Judiciary Committee  
437 Russell Senate Office Building  
Washington, DC 20510

Senator Charles Grassley  
Ranking Member,  
Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

The Legal Action Center is the only non-profit law and policy organization in the United States whose sole mission is to fight discrimination against people with histories of addiction, HIV/AIDS, or criminal records, and to advocate for sound public policies in these areas. We write today in strong support of President Obama's nomination of Mr. Michael Botticelli, the current Acting Director of the Office of National Drug Control Policy (ONDCP), to be the permanent Director of ONDCP. Mr. Botticelli has proven himself to be a highly effective and dynamic administrator. We strongly urge the Committee to swiftly confirm Mr. Botticelli's nomination.

Substance use disorders (SUD) are a leading cause of death (over 100,000 deaths annually). One in four deaths is attributable to alcohol and other drugs. Three quarters of the over 7 million people in the criminal justice system have a substance use disorder and/or had alcohol or drugs in their systems at the time of arrest. Barely 10% of the 23 million Americans who suffer from SUD receive any specialty care even though SUD are chronic diseases that can be effectively prevented and treated, and tens of millions of people are living in recovery from addiction.

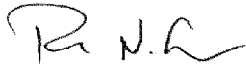
In the face of these serious challenges facing our country, Mr. Botticelli's background, expertise and ability to lead make him the ideal choice for Director of ONDCP. Mr. Botticelli's breadth of experience leading various public health agencies at the state and federal levels makes him uniquely qualified to shape our national drug control policy. We commend Mr. Botticelli's work thus far as Acting Director, and applaud his ability to engage with individuals and organizations representing the broad spectrum of stakeholders in our national drug policy. Mr. Botticelli has served as a strong, unifying leader in responding to the ongoing opioid crisis, highlighting the need for a coordinated, comprehensive response. He has also been a tireless advocate for the rights of individuals seeking addiction treatment to receive insurance coverage for their treatment that is at parity with the coverage for other kinds of health care. Mr. Botticelli has worked effectively with the wide range of stakeholders, from addiction prevention and treatment providers, to people in recovery and their family members, to members of the law enforcement, court and corrections communities, essential to implementing a smarter, more effective drug policy.

New York  
225 Varick Street New York, New York 10014  
Phone: 212-243-1313 Fax: 212-675-0286  
E-mail: lacinfo@lac.org • Web : www.lac.org

Washington  
236 Massachusetts Avenue, NE Suite 505 Washington, DC 20002  
Phone: 202-544-5478 Fax: 202-544-5712

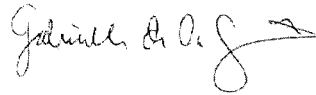
Throughout his career, Mr. Botticelli has promoted policies that work and helped to identify and eliminate those that do not, always remaining passionate in his determination to address drug use and addiction and dispassionate in his analysis of the evidence. LAC strongly endorses the nomination of Mr. Michael Botticelli to be Director of ONDCP and encourages his swift confirmation.

Sincerely,



---

Paul Samuels, JD  
Director/President  
Legal Action Center



---

Gabrielle de la Gueronniere, JD  
Co-Director of Policy  
Legal Action Center



November 10, 2014

Senator Patrick Leahy  
Chairman  
Senate Judiciary Committee  
437 Russell Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Members of the Committee:

I write to offer enthusiastic support for the nomination of Michael Botticelli to serve as Director of the Office of National Drug Control Policy on behalf of Lines for Life, the Northwest's leading substance abuse and suicide prevention organization. Acting Director Botticelli brings keen intellect, thoughtful insight and a remarkably deep portfolio of experience, and will provide excellent leadership at the helm of ONDCP.

I offer a unique perspective on Mr. Botticelli's experience. As a former federal prosecutor with 15 years prosecuting in the EDNY and D. Oregon – most recently as U.S. Attorney for Oregon -- I have a deep appreciation of Mr. Botticelli's commitment to the law enforcement and interdiction component of effect drug control policy. Mr. Botticelli has throughout his career demonstrated substantial interest and support for the work of narcotics investigators in keeping communities safe from the devastation of illegal drug trafficking. In his role as Acting Director, Mr. Botticelli has been an excellent champion for law enforcement efforts to interdict the supply side of drug trafficking.

But in my current role as a the CEO of a leading drug abuse prevention organization, I also appreciate Mr. Botticelli's understanding of the value of prevention in keeping communities safe and averting the tremendous costs that illegal drug use imposes – on families, on the victims of drug-related crimes, on communities and on taxpayers. Mr. Botticelli's leadership in combatting the epidemic of prescription drug abuse is just one example of the value he brings to the role of the Office of the Director in advancing prevention. At Lines for Life, preventing substance abuse and suicide is our mission – and we are confident that as Director, Mr. Botticelli would provide unparalleled leadership in implementing innovative and effective prevention strategies.

There are few leaders in the realm of drug control policy who have demonstrated such excellence in both interdiction and prevention efforts. Mr. Botticelli therefore offers ONDCP a rare combination of experience and leadership that will serve the nation extremely well.

I am honored to offer the unqualified support of Lines for Life for the nomination of Michael Botticelli to serve as Director of the Office of National Control Policy. I would be happy to provide any further information if helpful.

Respectfully submitted,

A handwritten signature in black ink that reads "Dwight C. Holton".

Dwight C. Holton  
Chief Executive Officer

November 10, 2014

Senator Patrick Leahy  
Chairman  
U.S. Senate Judiciary Committee  
437 Russell Senate Office Building  
Washington, DC 20510

Senator Charles Grassley  
Ranking Member  
U.S. Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

We write to express our support for the nomination of Michael Botticelli to be the Director of the Office of National Drug Control Policy (ONDCP). Given the many challenges presented by the epidemic of prescription drug abuse in our country, it is important that ONDCP have a strong leader. Michael Botticelli is an excellent choice for that job.

Acting Director Botticelli has the necessary knowledge and experience to excel as the Director of the Office of National Drug Control Policy and coordinate the myriad of federal agencies playing a role in the national drug strategy. He is known as a results-oriented leader who is able to work collaboratively with public health officials, criminal justice leaders and other key stakeholders to advance his objectives. In handling the prescription drug abuse problem, he has shown that he understands the need to balance availability of medication for those who need it while enacting a system of controls to ensure that drugs are neither diverted nor abused.

While leading the Bureau of Substance Abuse Services in Massachusetts, Mr. Botticelli faced the challenges of heroin and prescription drug abuse and helped to develop innovative responses to the crisis in his state. His wealth of experience in Massachusetts will serve him well as the entire nation now grapples with the same issues.

We strongly support the nomination of Michael Botticelli to service as the Director of ONDCP. Please let us know if we can be of help to you regarding this nomination or any other matter.

Sincerely,

*Partnership for Drug-Free Kids  
The American Academy of Pain Management  
The Center for Lawful Access and Abuse Deterrence  
Federation of State Medical Boards  
National Association of Chain Drug Stores  
The Pain Community  
American Society for Pain Management Nursing*



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November 10, 2014

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National Association for  
Children of Alcoholics

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
224 Dirksen Senate Office Bldg.  
Washington DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
224 Dirksen Senate Office Bldg.  
Washington DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

The National Family Partnership (NFP), the leading anti-drug parent organization for the past 35 years, encourages the Senate Committee on the Judiciary to give serious consideration to supporting the nomination of Michael Botticelli to the Director of the Office of National Drug Control Policy (ONDCP). It is rare that the substance abuse prevention field is offered the possibility of having, in this critical national position, a person who understands prevention in its broadest and most effective paradigms, while also being a powerful advocate for evidence-based intervention, treatment and recovery for those suffering from addiction and for their family members.

Through our 80 affiliates and our long-term partnership with hundreds of thousands of schools and thousands of communities, NFP is America's leader in educational prevention campaigns. Effective prevention requires environmental change through participation and involvement – and our campaigns are designed for that purpose. Our best known campaign is the Annual Red Ribbon Campaign (October 23-31st), which helps to move thousands of young people across the country each year into the critical personal commitment never to use drugs. We created the Lock Your Meds public awareness campaign which helped us realize anew how essential it is for the country to have an ONDCP Director who will be relentless in protecting our youth from access to opioids and other addictive and deadly prescription drugs. We applaud Mr. Botticelli for the steps he has already taken in addressing this current epidemic.

We the parents of America's vulnerable youth need and deserve a dedicated public servant who is experienced and committed to protecting our children from the scourge of drug use. We believe Mr. Botticelli is the person needed in that position at this time to support our efforts. We hope your committee will meet with him soon and move him toward swift confirmation.

We hope that Mr. Botticelli will soon be confirmed as the ONDCP Director, and we look forward to working with him in the months and years ahead as we continue our ongoing leadership in protecting America's youth from drugs. Thank you.

Sincerely,

Peggy Sapp  
President



November 11, 2014

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
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[www.amersa.org](http://www.amersa.org)

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**David C. Lewis, MD**  
AAB-BSA National Office  
Executive Director

**Doreen MacLone-Baeder**  
AAB-BSA National Office  
Director

Dear Chairman Leahy and Senator Grassley:

As the current president of AMERSA, I am writing to express my strong support for the nomination of Acting Director Michael Botticelli to serve as permanent Director of the Office of National Drug Control Policy. AMERSA, founded in 1976, is an organization whose mission is to improve health and well-being through interdisciplinary leadership in substance use education, research, clinical care and policy.

Mr. Botticelli is deeply familiar with the challenges of substance use in this country. He has proven himself to be the innovative and effective leader we need. During his tenure at ONDCP, Mr. Botticelli has successfully reached out across sectors and a broad range of stakeholders to advance solutions to addressing prevention, early identification and treatment of substance use disorders. As the Massachusetts Director of the Bureau of Substance Abuse Services, Mr. Botticelli championed innovative interventions in expanding addiction treatment. His record in Massachusetts has demonstrated his talents for working across agencies and jurisdictions to efficiently coordinate a comprehensive delivery of addiction services.

I strongly support Acting Director Michael Botticelli and urge the Committee to act swiftly to advance his nomination as Director of the Office of National Drug Control Policy.

Sincerely,

Daniel P. Alford, MD, MPH  
President – AMERSA





**JAMES L. MADARA, MD**  
EXECUTIVE VICE PRESIDENT, CEO

ama-assn.org  
t (312) 464-5000

November 12, 2014

The Honorable Patrick Leahy  
Chairman, Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member, Senate Judiciary Committee  
152 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Mazie Hirono  
Chairwoman, Subcommittee on Oversight,  
Federal Rights and Agency Actions  
330 Hart Senate Office Building  
Washington, DC 20510

The Honorable Orrin Hatch  
Ranking Member, Subcommittee on Oversight,  
Federal Rights and Agency Actions  
104 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy, Senator Grassley, Chairwoman Hirono and Senator Hatch:

On behalf of the American Medical Association (AMA), I want to enthusiastically support the nomination of Michael P. Botticelli for the position of Director of National Drug Control Policy.

Since joining the Office of National Drug Control Policy (ONDCP) in 2012 as Deputy Director, Mr. Botticelli has made a significant impact on the important issues facing this critical agency. Throughout Mr. Botticelli's tenure at ONDCP, the AMA has found him very willing to hear all sides, encourage dialogue with stakeholders on key issues, and craft imaginative solutions. As Acting Director, Mr. Botticelli has personally brought together the diverse agencies that are working to address the national epidemic of prescription opioid abuse, diversion, overdose and death to ensure a coordinated federal and state response.

Mr. Botticelli deals with drug control policy matters in a thoughtful, deliberate, and straightforward manner. The AMA has been particularly impressed with Mr. Botticelli's recognition of the need to expand access to treatment for patients with substance use disorders. Mr. Botticelli has a wealth of leadership experience in drug policy. Prior to ONDCP, he was Director of the Bureau of Substance Abuse Services at the Massachusetts Department of Public Health. In Massachusetts, he was instrumental in establishing a treatment system for adolescents, early intervention and treatment programs in primary healthcare settings, jail diversion programs, re-entry services for those leaving state and county correctional facilities, and overdose prevention programs. In 2008, Mr. Botticelli was the first recipient of the annual Ramstad/Kennedy National Award for Outstanding Leadership in Promoting Addiction Recovery, and in 2012, he was awarded the Service Award from the National Association of State Alcohol and Drug Abuse Directors.

The AMA urges the Senate to move expeditiously to confirm Michael Botticelli. He brings a wealth of expertise and talent to this important position.

Sincerely,

James L. Madara, MD



The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Senator Grassley:

We, the undersigned organizations, are writing to express our strong support for the nomination of Acting Director Michael Botticelli to serve as permanent Director of the Office of National Drug Control Policy. The organizations, agencies, and individuals represented on this letter work everyday on the frontlines of communities struggling to confront the opioid overdose epidemic. Our organizations are committed to ending the opioid overdose epidemic through comprehensive overdose education and naloxone distribution strategies that engage people at risk, their friends and family members, first responders, health care providers and pharmacists, and drug treatment and recovery programs.

Mr. Botticelli is deeply familiar with the challenges of the opioid epidemic. Drug poisoning deaths have overtaken automobile accidents as the leading cause of injury-related mortality in the United States. Approximately 110 Americans are lost every single day to drug poisoning. It is more important than ever that our nation ensure strong and effective leadership and coordination of federal policies and activities to address the overdose crisis.

Mr. Botticelli has proven himself to be the innovative and effective leader we need. During his tenure at ONDCP, Mr. Botticelli has successfully reached out across sectors and a broad range of stakeholders to advance solutions to the opioid epidemic. As the Director of the Bureau of Massachusetts Substance Abuse Services, Mr. Botticelli championed innovative interventions in overdose prevention that have served as a model to other states, saving countless lives today. His record in Massachusetts has demonstrated his talents for working across agencies and jurisdictions to efficiently coordinate a comprehensive delivery of addiction services.

We stand in strong support of Acting Director Michael Botticelli and urge the Committee to act swiftly to advance his nomination as Director of the Office of National Drug Control Policy.

Sincerely,

A New PATH (Parents for Addiction Treatment & Healing)  
Baltimore Student Harm Reduction Coalition  
BOOM! Health  
Broken No More  
Chicago Recovery Alliance  
CHOW Project, HI  
Dr. Ingrid Binswanger, MD, MPH, MS  
Dr. Phillip Coffin, MD, MA, University of California, San Francisco  
Dr. T. Stephen Jones, MD, MPH, US Public Health Service Commissioned Officer and Centers for Disease Control and Prevention staff member (retired)  
Floridians For Recovery

**East Coast Office**  
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Givenaloxone.org  
GRASP  
Harlem United Community AIDS Center, Inc.  
Harm Reduction Action Center (Denver, CO)  
Harm Reduction Coalition  
Hep Free Hawaii  
Holly Catania, Esq., Health and Law  
MIWhoSoEver  
North Carolina Harm Reduction Coalition  
Porter-Starke Services, Inc.  
Prevention Point Pittsburgh  
Project Inform  
Project Lazarus  
Southern Harm Reduction and Drug Policy Network  
St. Ann's Corner of Harm Reduction  
Suncoast Harm Reduction Project  
Texas Overdose Naloxone Initiative  
Traci Craig Green, MSc, PhD, RI  
VOCAL New York  
Washington Heights CORNER Project

CC: Senate Judiciary Committee Members

<b>East Coast Office</b> 22 West 27th Street, 5th Floor New York, NY 10001 (212) 373-8376 <a href="http://www.harmreduction.org">www.harmreduction.org</a>	<b>West Coast Office</b> 1402 Broadway, Suite 410 Oakland, CA 94612 (510) 444-6969 <a href="mailto:info@harmreduction.org">info@harmreduction.org</a>	<a href="http://www.harmreduction.org">www.harmreduction.org</a>
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## Major County Sheriffs' Association

1450 Duke Street, Suite 207, Alexandria, Virginia 22314

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November 12<sup>th</sup>, 2014

The Honorable Patrick Leahy  
Chairman  
Senate Judiciary Committee  
437 Russell Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley,

As President of the Major County Sheriffs' Association (MCSA), I write to you today to express our support for Michael Botticelli to be the next Director of the Office of National Drug Control Policy (ONDCP). While serving as Acting Director of ONDCP, Mr. Botticelli has dutifully carried out his responsibilities, has been a thoughtful leader and we look forward to continuing our collaborative and transparent relationship with him and his office.

MCSA is comprised of elected Sheriffs from our Nation's largest counties, representing over 100 million Americans. As such, we have a front-line understanding of drug crime and the corrosive impact of drugs on society, public safety and public health. The presence of international trafficking organizations in our towns and cities, the rising abuse of heroin, ongoing diversion of prescription drugs, and the enduring production and use of methamphetamine all represent significant drug problems facing our country.

Beyond the drug threat itself, MCSA remains concerned about the direction of certain aspects of U.S. Federal drug policy, particularly regarding marijuana. While ONDCP has maintained opposition to the legalization of marijuana and continues to highlight the dangers of its use, there remain gross inconsistencies regarding actual enforcement policy of marijuana. Specifically, the Department of Justice and its guidance to rely on State and local authorities to address marijuana activity – despite marijuana remaining illegal under the Controlled Substances Act – continues to challenge the ability of law enforcement to execute the law in a consistent and uniform way. A conflicting and unclear stance on drug policy complicates our ability to do the job that our communities expect us to perform.

Additionally, increasing data suggests that the legalization of marijuana in certain States has resulted in a number of adverse effects, such as higher incidents of drugged driving, growing workplace accidents and rising highway fatalities. Schools are also reporting increased incidents of marijuana diversion to underage students and calls to poison control centers regarding marijuana use are on the uptick. In fact, in October 2014, Governor Hickenlooper of Colorado publicly referred to his state's legalization of marijuana as "reckless." Looking ahead, these problems will continue to exist, especially as additional States consider legalizing marijuana for personal use – the most recent being Alaska, Oregon and the District of Columbia.

As the 113<sup>th</sup> Congress finishes business in this session, and as 114<sup>th</sup> Congress quickly approaches, we strongly urge the Senate Judiciary Committee to examine these critical issues in greater depth, particularly from an oversight perspective. A clear and cohesive stance on drug policy is fundamental to effectively tackling this destructive problem and will give law enforcement officers across the country the reinforcement they need to carry out the dangerous duties of their profession with confidence.

We sincerely appreciate Mr. Botticelli and his staffs' continued engagement with MCSA and the law enforcement community on these and other related matters. We also look forward to working with ONDCP and Congress on addressing these pressing and important challenges.

Should you or your staff have any questions or require additional information, I can be reached via the contact information provided on this document.

Very Respectfully,

A handwritten signature in black ink, appearing to read "Steve Lyons". The signature is fluid and cursive, with the first name "Steve" written in a larger, more prominent script than the last name "Lyons".

President, Major County Sheriffs' Association  
Sheriff-Coroner, Kern County (CA)

Remarks of Senator Gillibrand:

Thank you, Mr. Chairman, and ranking member. I am honored to be here today to introduce Joan Azrack (AZ-RACK), and offer my strong support of her nomination to the United States District Court for the Eastern District of New York. I would like to thank President Obama for acting on my recommendation and nominating another superbly qualified female jurist to the federal bench.

Ms. Azrack is a woman with impeccable credentials, incredible intellect, and exactly the kind of fair-minded judgment we need on the federal bench. She comes from a family that immigrated to New York in the early 1900's, and she has dedicated her entire career to public service. Ms. Azrack today serves with distinction as a United States Magistrate Judge in the Eastern District of New York.

Ms. Azrack came to the bench from the U.S. Attorney's Office for the Eastern District of New York, where she served as Deputy Chief of the Criminal Division. She began her legal career with the U.S. Department of Justice's Honors Program.

An examination of her record leads to one clear conclusion: through her breadth of experience, her dedication to the citizens of New York,

her talent, and her intellect, Ms. Azrack would be an outstanding jurist on the federal bench.

There is no doubt this country needs more qualified and exceptional women like her serving on the federal bench. Over the last several years, the number of women in the federal judiciary has stagnated – hovering at roughly 500. That's less than a third of the federal bench. When women are fairly represented on our federal courts, those courts are more reflective of America's diverse population.

While it's true that women have come a long way in filling the ranks of the legal world, we still have a long way to go before we reach equality. I have no doubt that having Ms. Azrack serving in the federal judiciary will bring us another step closer to that goal.

I was honored to recommend her for this position, and I urge the swift approval of her nomination.

Thank you.

**Sen. Mark R. Warner Introductory Remarks**  
**Judicial Nominee Elizabeth Dillon**  
Senate Judiciary Committee – Nov. 13, 2014

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- I am honored to introduce fellow Virginian and President Obama's nominee to serve as judge for the Western District of Virginia, Elizabeth Dillon. If confirmed, she will be the first woman to serve as a judge for the Western District in its nearly 200 years of existence.
- Elizabeth is exceptionally well qualified to carry out the duties and responsibilities of a judge for the Western District of Virginia. She possesses the experience, integrity, temperament and expertise that we expect of nominees to the District Court.
- Elizabeth was born in Omaha, Nebraska. After earning her J.D. from Wake Forest in 1986, she moved to Virginia to begin her law practice with a Roanoke law firm, working as an associate and then senior attorney assisting with litigation and transactional matters.
- In 1999, Elizabeth moved to a smaller firm of just two attorneys to continue her representation of public entities and maintain her focus on law enforcement and employment law. She also represented state employees in medical malpractice cases brought against them, as well as plaintiffs in EEOC matters.
- In 2000, she moved to the public sector to work in-house for the City of Roanoke, where she represented the Police Department, Fire Department, E-911 Office, Human Resource Department, and the Roanoke City School Board.
- In 2004, she returned to private practice where her focus remains in employment law and civil rights defense representing public employers and employees. She also serves as part-time local government attorney for several local governments.
- She has a long history of pro bono work, including serving on the Virginia State Bar's Clients' Protection Fund Board since 2011. The Board provides



the opportunity for reimbursement to clients when a client loses money or property because of dishonest conduct by their lawyer.

- She has been rated “highly qualified” by the Virginia State Bar.
- The ABA rates her “well qualified” as well.
- And just a quick note about the district. The Western District stretches from Charlottesville in central Virginia all the way to Lee County in far Southwest – further west than Detroit. The Western District is a sprawling district with a diverse population and a diverse set of legal challenges.
- It started out as part of one of the original 13 judicial districts, created by The Judiciary Act of 1789. Virginia was subdivided in 1819, when the Western District was first created.
- Since its creation in 1819, the Western District has never had a woman serve on its bench. Elizabeth Dillon would be the first.
- Although she may not be the loudest voice in a room, Elizabeth speaks with a firm and confident tone that conveys both passion and fairness. Through my encounters with her, I am convinced that she will capably and dutifully perform the duties required of her in this position.
- Once again, I am honored to introduce Elizabeth Dillon to you today. I strongly support her confirmation. I urge the Committee to favorably report her nomination and look forward to working towards her swift confirmation on the Senate floor.

**Senator Kaine Statement in Support of Elizabeth K. Dillon for the U.S. District Court for the Western District of Virginia**

Madame Chair and Minority Leader Grassley,

I support the nomination of Elizabeth K. Dillon to the U.S. District Court for the Western District of Virginia. I am happy the Judiciary Committee has taken the initial step toward confirming the first female judge for this court.

Elizabeth Dillon's career reflects a dedication to the law that has focused on employment issues, civil rights, and local government that will serve her well as a federal district court judge. She boasts extremely qualified credentials to serve, and her intimate familiarity with the court, its rules, and the docket will prove invaluable for any newcomer to the bench.

Ms. Dillon displayed great promise beginning in law school, where she was selected to the Law Review at Wake Forest University School of Law. After graduation, she joined Woods, Rogers & Hazlegrove, P.L.C. in Roanoke as an associate in the litigation practice where she later rose to senior attorney. During this time she gained experience on Section 1983 cases, Title VII, workers' compensation, and general defense work, including automobile and product liability defense.

She later moved to her current firm, Guynn & Dillon, P.C., where she worked on similar cases and expanded her practice to representing public entities. In mid-career, Ms. Dillon answered the call to public service and joined the Office of the City Attorney where she represented the Police and Fire Departments and other public agencies. She has since returned to Guynn & Dillon where she remains a partner in the firm.

Throughout this time, Ms. Dillon remained committed to the profession as a contributing member to various local Bar associations and the State Bar. She has lectured, provided presentations, and served as a panelist on professionalism, Section 1983, employment law, student privacy, and the state Freedom of Information Act. Her active participation in the Bar reflects her desire to grow professionally, expand her knowledge of the law, and groom younger members of the Bar – qualities well-suited for a potential judge who will have to keep abreast of developments in the law.

As the Senate moves forward in the confirmation process, I am happy to support Ms. Dillon to the bench in the Western District of Virginia.

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**MARKEY INTRODUCTION OF MICHAEL BOTTICELLI  
FOR DIRECTOR OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY  
JUDICIARY NOMINATION HEARING  
NOVEMBER 13, 2014**

The state of Massachusetts, like too many other regions of this country, has been devastated by a scourge of prescription drug and heroin addiction that is breaking apart families and burying communities under a mountain of despair. Drug overdose deaths, fueled by prescription painkillers, now claim more lives than car accidents nationwide. Approximately 100 Americans die from an overdose every day.

As a Senator from Massachusetts, I have a deep appreciation and respect for Michael Botticelli's accomplishments addressing addiction during his nearly two decades serving in the Massachusetts Department of Public Health. He is a public health and drug policy pioneer.

Immediately prior to joining the Office of National Drug Control Policy as Deputy Director, Mr. Botticelli was the Director of the Bureau of Substance Abuse Services at the Massachusetts Department of Public Health and was responsible for launching an innovative program that expanded treatment and recovery opportunities in local community health centers, including a focus on providing a continuum of care for those suffering with substance use disorders.

Mr. Botticelli also expanded innovative and nationally-recognized prevention strategies. He established and implemented evidence-based jail diversion programs, re-entry services for those leaving state and county correctional facilities, and overdose prevention programs.

Though there is always more work to be done, it is because of Mr. Botticelli's efforts and the legacy that he left behind, that Massachusetts is in many ways a national leader in combating the prescription and heroin abuse epidemic.

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Mr. Botticelli has been very public about his personal history of struggling with an alcohol use disorder as a young professional and of seeking help that has led him into long term recovery. He recently celebrated 26 years of sobriety, and I applaud him for that.

Mr. Botticelli's personal life experiences have clearly provided him a unique perspective on this epidemic facing our nation. It is his openness about his struggles and his path to recovery that helps to shed much needed light on the issue of addiction, which has lurked too long in the shadows of shame and stigma. I believe his story helps encourage others to seek treatment and begin a life a recovery. He truly is leading by example.

The drug problems facing our country and our approach to these problems have changed dramatically since the Office of National Drug Control Policy was created in 1988. Mr. Botticelli has an excellent understanding of the mission of this office, the changing needs of the addiction community and the solutions to halting the rise of substance use disorders in this country. I believe he will make an excellent director, bringing both his strong heart and his keen mind to the Office of National Drug Control Policy.

I am honored to introduce him today, and look forward to working with him in the years to come.

**NOMINATIONS OF MICHELLE K. LEE, NOMINEE  
TO BE UNDER SECRETARY OF COMMERCE  
FOR INTELLECTUAL PROPERTY AND DIREC-  
TOR OF THE U.S. PATENT AND TRADEMARK  
OFFICE, AND DANIEL HENRY MARTI, NOMI-  
NEE TO BE U.S. INTELLECTUAL PROPERTY  
ENFORCEMENT COORDINATOR, EXECUTIVE  
OFFICE OF THE PRESIDENT**

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**WEDNESDAY, DECEMBER 10, 2014**

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:11 a.m., in Room SD-226, Dirksen Senate Office Building, Hon. Patrick J. Leahy, Chairman, presiding.

Present: Senators Durbin, Whitehouse, Klobuchar, Franken, Blumenthal, Hirona, Grassley and Hatch.

**OPENING STATEMENT OF HON. PATRICK J. LEAHY,  
A U.S. SENATOR FROM THE STATE OF VERMONT**

Chairman LEAHY. I was just apologizing to Senator Hatch for being late because of a family semi-emergency. I am so glad Michelle Lee and Daniel Marti are here today. These are nominees to two very important leadership positions. They are charged with supporting our Nation's creators and artists and inventors.

Those are categories that showcase the best of America and they also need to be protected. I take a strong personal interest in these positions, both as the leader of this Committee and as the Senator from Vermont who is Dean of the Senate. These are important things.

In our State of Vermont, we have a diverse range of artists, writers and creators. We are a State of only 625,000 people, but every year it ranks among the most innovative States, has the highest patents per capita of any State. We know firsthand that creators and innovators are the lifeblood of this country. They fuel our imagination. They create jobs. They contribute billions of dollars to the economy.

It is probably the fact that we have had such creators in Vermont that we have always—even during the recent recession, some call it depression, we maintain the lowest unemployment rate

in the country. The two nominations we are considering today play a central role promoting this important work.

Intellectual Property Enforcement Coordinator or IPEC was created by legislation I authored in 2008. It was reported by this Committee and then in a Senate, sometimes called divisive, it passed the Senate unanimously. Our objective was to take a comprehensive approach to intellectual property enforcement within the U.S. Government.

IPEC plays a valuable role bringing together members of the Internet ecosystem, addresses a complex problem of online IP theft. Earlier this year, Senator Grassley and I sent a letter to President Obama urging him to nominate someone to fill this position. It had been vacant for over a year. Today's confirmation hearing is an important step in filling the vacancy following the calls of Senator Grassley and myself.

Compared to the IPEC, the position of the Director of the Patent and Trademark Office is not so new. Our Nation's first official charged with granting patents was Thomas Jefferson. That is kind of a proud lineage to be in—when he was Secretary of State.

By serving America's innovators, the PTO helps Vermonters and citizens across the country build their businesses. Three years ago Congress came together to pass the Leahy-Smith America Invents Act. It is the greatest transformation to our patent system in over 60 years, not my words, but the words of most who followed it.

The Committee worked for 6 years to pass that landmark legislation bringing our patent system into the 21st century. AIA sought to improve patent quality, creating new and more efficient administrative proceedings at the PTO and I want to hear more from Mrs. Lee about these and other efforts as the PTO continues its work delivering the promise of AIA.

I am pleased in the funding bill released last night, we were able to assure that the PTO receives a budget of \$3.46 billion, reflecting the amount that it collects for user-fees that are strengthened by the Leahy-Smith bill. Full funding of PTO should remain a priority and we have to do more work to strengthen our patent system. I think that is something that Senator Hatch, Senator Grassley and I would all agree on.

We have been working over the past 18 months to address misconduct by bad actors who are abusing the patent system. Let me state that I will work with my colleagues on both sides of the aisle next year to address these so-called patent trolls who send threatening letters to small businesses in Vermont or Utah or anywhere else. They tie up companies across the country in bad faith lawsuits. They hamper innovation and harm our economy. We dedicated months of committed work to make some bipartisan progress this year and I am told by the new leadership of the Committee we will continue to do that.

[The prepared statement of Chairman Leahy appears as a submission for the record.]

I know that Senator Grassley has been delayed on an Agriculture matter which is important to both our States. Senator Hatch, did you want to make any comments?

**OPENING STATEMENT OF HON. ORRIN HATCH,  
A U.S. SENATOR FROM THE STATE OF UTAH**

Senator HATCH. Let me just say that I am pleased that these two nominees are here and that we are moving ahead. These are very important positions in our country and they are sorely in need of management so I am grateful to both of you for being willing to serve and we will have some questions for you, but that is par for the course.

Thanks for being willing to serve and we appreciate the effort. Thank you, Mr. Chairman.

Chairman LEAHY. Thank you. Daniel Marti is the managing partner of the Washington, DC, office of Kilpatrick Townsend and Stockton. He has spent his entire legal career specializing in intellectual property law, focused in trademark law. I am going to hear from both witnesses, but do you have members of your family here, Mr. Marti?

Mr. MARTI. I do.

Chairman LEAHY. So they will someday be in the Marti archives, that they will know who was here, would you please introduce them.

Mr. MARTI. Yes, with pleasure. My entire family is here, joining me and supporting me today on this important day. I have my mother and father, Enrique and Patricia Marti from Florida who just came in last night; my beautiful wife, Lauren; our two children Myles and Alyssa; my sister, Patty and her son; and my sister, Andrea, from Boston could not make it, but hopefully she is following online.

Chairman LEAHY. We have a tad bit of snow up northeast here.

Mr. MARTI. Yes.

Chairman LEAHY. I am hearing from a couple of my neighbors in Vermont.

Michelle Lee currently serves as the Deputy Director of the U.S. Patent and Trademark Office. She was the first Director of the Silicon Valley Satellite Office to the PTO. She has served on the PTO's Public Patent Advisory Committee. She was Deputy General Counsel, head of patents strategy at a little startup company called Google.

Ms. Lee, do you have members of your family here?

Ms. LEE. I do, Senator Leahy. I have the privilege of having with me my husband, Christopher Shen; our 4-year-old daughter, Amanda Mavis; and my mother, Agnes Lee from Palo Alto, California.

Chairman LEAHY. Well, welcome to Washington. You must be awfully proud of your daughter, your wife and your mother. She is thinking hmm [indicating]. Our youngest was that age when I was sworn into the Senate. My parents were more impressed than he was at the time.

[Laughter.]

Chairman LEAHY. So let me start. Who would like to go first with their statement? Mr. Marti, do you want to?

**STATEMENT OF DANIEL HENRY MARTI, NOMINEE TO BE U.S. INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR, EXECUTIVE OFFICE OF THE PRESIDENT**

Mr. MARTI. Thank you Chairman Leahy, Ranking Member Grassley and distinguished Members of this Committee. I am honored to have the opportunity to be considered by this Committee as the President's nominee to serve as the Administration's Intellectual Property Enforcement Coordinator or IPEC. I would like to thank the President for his confidence in my ability to serve in this important post and I thank Victoria Espinel for her remarkable leadership and service during her time as the first IP Enforcement Coordinator.

As I mentioned a minute ago, I am joined here and supported today by my entire family including my 6-year-old daughter, Alyssa, and 9-year-old son, Myles, who may be the only children in their elementary school who speak about intellectual property matters while swinging from the monkey bars on the playground. I also would like to specifically acknowledge and thank my beautiful wife, Lauren, for her love and support. I know it may be often said, but it has never been more true, I am a better man because Lauren is in my life.

This opportunity to serve my country is truly humbling.

I am a first-generation American born in Washington, DC, of Spanish and Chilean parents who came to this country speaking little English. My father, Enrique, chose to leave the seminary in Germany where he was studying to be a Jesuit priest so he could teach philosophy and theology at a university in Washington, DC.

My mother, Patricia, has dedicated her life to making sure that my two sisters and I have the chance to follow our educational and professional pursuits wherever they would lead. Their real sacrifices have allowed me to be here before this distinguished Committee, and for that I am immensely grateful.

I currently serve as a managing partner of the Washington, DC, office of Kilpatrick Townsend and Stockton, which has one of the largest IP practices of any law firm in the country. I have devoted the entirety of my professional practice to matters concerning intellectual property enforcement.

My clients have included companies in the fields of technology, banking, consumer products, entertainment media and sports, fashion and luxury goods, hospitality and gaming, and food, beverage and agriculture. Through these and other client representations, I have developed a deep and broad view of IP rights and IP policy.

If confirmed, I will work to achieve a thoughtful and strong intellectual property system that encourages innovation, creativity and fair competition based on the rule of law. An effective intellectual property enforcement strategy must consist of a comprehensive and multifaceted approach to this dynamic issue, one that is well-positioned to anticipate and, indeed, respond to the evolving nature of intellectual property issues.

An intellectual property enforcement strategy should, for example, involve sustained coordination among Federal agencies and enhanced sharing of information, focused diplomatic efforts, including engagement with trading partners, the use of trade policy tools and IP related training and capacity building, private sector voluntary



best practices, the adoption of technological solutions and public awareness, education and outreach, to name a few.

I will work to promote our ongoing efforts to protect intellectual property from unlawful infringement both home and abroad. These efforts will involve a broad range of stakeholders, including Congress, Federal Agencies, the private sector and public interest groups.

Each of these stakeholders and the views and positions they represent will be key resources for me in pursuing the goals of my office. America's great spirit of innovation and creativity has been a primary driver of our economic growth and national competitiveness. Intellectual property is also critical to our balance of trade and intellectual property-intensive industries represent a substantial portion of our gross domestic product and support millions of jobs.

Congress and Members of this Committee, in particular, had the vision to create the IPEC position in order to elevate the coordination of IP efforts across the United States and indeed internationally. And if confirmed, I look forward to building on the success and the momentum of the office and to carry forward the efforts of the United States Government's economic, criminal and national security agencies engaged in intellectual property policy and enforcement.

Thank you, again, for the opportunity to appear before you. I look forward to answering your questions.

Chairman LEAHY. Thank you very much. Thank you for mentioning your parents' journey to this country. My paternal grandparents came to this country also not speaking the language, raised six children, started a wonderful business in Vermont and got to see their grandson come to the U.S. Senate. So we are, as I often add, a Nation of immigrants and better for it.

[The biographical information and prepared statement of Mr. Marti appear as submissions for the record.]

Chairman LEAHY. We have been joined by Senator Grassley who was tied up, necessarily, at the Agriculture meeting. Did you want to say something and then I was going to have Ms. Lee speak?

Senator GRASSLEY. No. Let her speak and then before I ask questions, I will do a short opening statement.

Chairman LEAHY. Well, thank you very much.

Ms. Lee, please go ahead.

**STATEMENT OF MICHELLE K. LEE, NOMINEE TO BE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE**

Ms. LEE. Thank you. Chairman Leahy, Ranking Member Grassley and distinguished Members of the Committee, thank you for the opportunity to be here before you today. I am honored and grateful to President Obama for nominating me for such an important position and to Secretary Pritzker for her past and ongoing support.

With me here today, as I mentioned and without whom I would not be here today, are my husband, Christopher Shen; our 4-year-old daughter, Amanda Mavis; and my mother, Agnes who traveled from Palo Alto, California.

I was born and raised in the Silicon Valley, the daughter of an immigrant family that settled in a place that turned out to be one of the most innovative regions in our country, if not the world. My father was an electrical engineer. We spent our weekends and evenings tinkering, working together to fix or build things like a Heathkit handheld radio.

In fact, all of the dads on the street that I grew up on were engineers, innovators in the truest sense of the word. It was not uncommon for them to work for companies founded by a person with a clever invention who patented that idea and who obtained venture capital funding to bring that technology to the marketplace. Some of the companies succeeded. Some of them did not. But for those that did, they created good jobs for families such as mine and in some cases, new products and services that revolutionized the world and the way in which we live.

Seeing the process up close and personal growing up made a lasting impression on me. I wanted to contribute and to enable others to contribute to innovation. It is why I studied electrical engineering and computer science and later intellectual property law with a goal of representing innovative companies.

While working at MIT's Artificial Intelligence Laboratory and HP's Research Labs as a computer programmer, I witnessed innovation at its inception. It was an exciting experience and one that I will never forget and that still informs my work to this day.

Later as an attorney, I worked on patents and patent strategy for a then small company that grew into a Fortune 500 Corporation in the span of eight short years. Along the way, we built the company's patent portfolio from a few handfuls of U.S. patents to over 10,500 patents worldwide and in the process, I used many of the services offered by the USPTO.

Through my experiences as in-house corporate counsel and before that as a partner in a Silicon Valley law firm, I represented a wide range of innovators, from independent inventors to Fortune 500 companies. I came to understand and practice many areas of intellectual property law and almost every aspect of patent law including writing patents, asserting patents, defending against patent infringement and licensing, buying and selling patents.

I understand and appreciate from a business perspective the important value and uses of intellectual property for innovators and to our country. During the past 3 years, through my service on the USPTO's Patent Public Advisory Committee, then as the Agency's first Silicon Valley Satellite Office Director and now during the past year as the Deputy Under Secretary and Deputy Director, I have been leading the agency and have worked with a broad range of stakeholders from almost every industry, gaining first-hand understanding of the USPTO, its strengths, challenges, potential and opportunities.

I have seen and worked with the impressive talent of the dedicated USPTO team. It is clear to me how the USPTO's work benefits our Nation's innovation. I believe the USPTO must remain focused on reducing backlog and pendency while maintaining the highest level of quality of both patents and trademarks.

Given the increasingly global economy, it is also imperative that American companies have access to effective, cost-efficient and

strong intellectual property protection overseas. In my current role, I have had the privilege of working on many of these initiatives and if confirmed, would continue to work on these important goals.

I believe that our intellectual property laws and the USPTO play a critical role in advancing America's technological competitiveness, which is so necessary for our country's continued economic growth. If confirmed by the Senate, I commit to bring to bear all of my energy, creativity and intellect to protect and strengthen the intellectual property system that has served our country so well. Thank you.

[The biographical information and prepared statement of Ms. Lee appear as submissions for the record.]

Chairman LEAHY. Thank you very much, Ms. Lee. That is most impressive. Again, like Mr. Marti, you speak of the contribution made to our country by those who come to our country, like my grandparents or my great, great grandparents.

Senator GRASSLEY has joined us. Did you wish to say something?

Senator GRASSLEY. Why do you not ask your questions and then I will give my statement and ask my questions.

Chairman LEAHY. That would be fine. Thank you very much. After I ask my questions—because I have to go, also something involving Agriculture, I am going to leave the gavel in the competent hands of Senator Whitehouse.

Ms. Lee, 3 years ago we acted to modernize the patent system. We passed the, as I mentioned earlier, the Leahy-Smith America Invents Act. Now the PTO has already received over 2000 petitions for the AIA post-grant proceedings. The proceedings were designed to create an efficient forum, as you know, to provide a fast and cost-effective resolution for all challengers and patent holders.

How is PTO implementing those provisions? What effect have you seen on patent quality since they were enacted?

Ms. LEE. Thank you very much for your question, Senator Leahy. The PTO has been and has implemented three post-grant proceedings that resulted from the America Invents Act. They have been exceedingly popular with our stakeholders. In fact, in the last fiscal year, we received more than three times the anticipated number of filings.

It has proven to be a cost-effective, faster method of resolving the issue of patent validity and the participants get the benefit of a panel of three technically trained adjudicators, jurists, deciding their cases. So they have been very popular.

That said, the USPTO and if confirmed as Director, I would continue to work to improving those procedures. In fact, very recently we had an outreach to the Nation to get input on how we can further improve those proceedings.

Chairman LEAHY. Thank you very much. Mr. Marti, I was thinking of Victoria Espinel's tenure, the first IPEC, the office made great strides in voluntary agreements between stakeholders. You know from your own practice of law if you can find voluntary agreements, it is a lot quicker than having to litigate something.

You have the important role there in addressing problems of counterfeiting, IP theft online. Last month, I sent a letter to the major credit card companies urging them to do more to prevent use of their payment networks for illegal activity. My staff has had

some very good conversations with them. Visa, for one, has taken proactive steps with respect to a number of cyberlockers engaged in online piracy.

Once the IPEC position is filled, I want them to continue these discussions and I would hope that IPEC would renew the office's work with advertising networks that are inadvertently sending money to illegal websites. How do you intend to build upon the agreements we have because it was one thing in the old Bonnie and Clyde days, somebody to drive up to the bank and steal it. Now, as you know, we are talking about billions of dollars that can be moved back and forth illegally. How would you work on this?

Mr. MARTI. Thank you, Senator. I agree that threats to the US IP interests are immense and growing both in size and scope. The private sector must be part of the solution. Intellectual property enforcement is a multipronged approach and voluntary initiatives are an important part of that approach.

I look forward to working with the private sector to continue the good work of the office and continue to assess those voluntary initiatives from the past years and where improvements need to be made, certainly look forward to proposing some additional improvements to existing voluntary initiatives and looking for new ones. Particularly on the point that you mentioned, making sure that we can cut off funding from rogue sites, from infringers, from criminal enterprise, and part of that is going after the money through payment processors and also through the ad networks that also direct payments to these rogue websites.

Chairman LEAHY. Thank you. As you know, we can pass legislation, we can bring the lawsuits, but if you can work out the agreements, it is a lot quicker and they can usually be tailored to the problems we need. So I would encourage that.

Speaking of legislation, over the past 18 months, as I mentioned earlier Ms. Lee, we have been trying to develop legislation to curb some of those people who are abusing the patent system. I still want to get through some patent troll legislation, for example.

We have had some very positive steps. We have improved transparency. We have taken steps against bad faith demand letters. We have protected the end users. We tried to address frivolous lawsuits through targeted reforms.

What do you think are the most valuable strategies we could use to go after the bad actors, but at the same time to protect the people the patent system is setup to protect, the legitimate patent holders and those who want to legitimately get a patent?

Ms. LEE. Thank you, Senator Leahy. That is a very good question and it is something that I have been giving a lot of thought to.

I think to strengthen the patent system we need to have change from really all aspects of our patent ecosystem. Legislation is certainly a piece of it. We are seeing a lot of changes now in the courts in terms of heightened discretion for attorneys fees and heightened definiteness requirements.

I will say, Senator Leahy, the USPTO has taken on a lot of initiatives including an enhanced patent quality initiative, including making the patents that we issue clearer by having examiners putting more statements on the record so litigants are not litigating the same issue again years down the road. So through all of these

efforts, I think what we need to do is we need to look at all of the issues, listen to our stakeholders and work with all of you to achieve the right balance for a meaningful and impactful patent reform.

Chairman LEAHY. Well, thank you. I will put the last of my questions in the record. I am glad that you are here and I think it is an important position and as Senator Grassley and I said in our letter to the President, it should be filled.

[The questions of Chairman Leahy appear as a submission for the record.]

Chairman LEAHY. Senator Grassley.

**OPENING STATEMENT OF HON. CHUCK GRASSLEY,  
A U.S. SENATOR FROM THE STATE OF IOWA**

Senator GRASSLEY. Thank you very much. I want to do an opening statement and then I will have 5 minutes of questions as well.

I want to congratulate Ms. Lee and Mr. Marti for your nominations to serve as Director of the Patent Office and Intellectual Property Enforcement Coordination. You both have strong qualifications, a proven record in the field of IP law and are well respected among that IP community. Both the Patent and Trade Office and the Office of IPEC need strong and accountable leadership, so I am pleased that the President has submitted your nomination.

The United States is at the forefront for innovating, creating and developing new technologies. Intellectual property supports technological advances in innovation. Intellectual property also plays a critical role in job creation and economic growth and balance of trade. In fact, the entire U.S. economy relies on some form or another of intellectual property because virtually every industry either produces or uses it.

We need to ensure that intellectual property rights are protected here in the United States and abroad. Improved coordination between our government agencies will strengthen enforcement of our intellectual property laws. Enhanced cooperation by different industry stakeholders will also help protect our intellectual property. In addition, we need to be doing our best to utilize limited resources in the most efficient way possible and reduce wasteful duplication.

The bottom line is that if we want the United States to remain a world leader in innovation and creativity, we must have a system in place that respects and enforces our IP laws. Consequently, now more than ever before, the Patent Office and the IPEC need strong capable leadership. These offices play a crucial role in promoting American innovation and economic prosperity, so there is simply too much at stake to settle for anything less.

Speaking specifically to Ms. Lee, you have been nominated to a tough position, the continued implementation of the America Invents Act, clearing out the backlog of patents and trademark applications and putting a stop to abusive patent litigation are just a few of the many challenges facing that agency. Further, we have learned about time and attendance fraud, preferential hiring practice and other mismanagement issues at the PTO.

These are very concerning findings and they will be corrected, I am sure, with your leadership. That is what I am hopeful about.

Mr. Marti, you also are nominated to a position that will require a lot of smarts to bring together differing agendas and priorities. Your predecessor did a good job at working with the private sector to reach voluntary agreements on how to protect intellectual property against bad actors, but there is still much to be done. I am sure that you know that you have your work cut out for you.

So I look forward to hearing more about how you both intend to lead these two important offices. I would like to have a paragraph here on the process. I would like to say a few words about what we are doing today in today's hearings.

I think everybody in the room today, including the nominees, understand that there is not enough time for these nominations to be confirmed before we adjourn. We also know, of course, that when the new Congress is sworn in, this Committee will have new Members and those Members should have an opportunity to participate in a hearing. I expect that next year those new Members will have that opportunity.

So I wanted to make sure that the nominees are on notice about that and don't have any false expectations. And what I just said here at the tail end is not meant to detract from what I said about your qualifications and the fact that we are glad that the President nominated you.

Chairman LEAHY. If the Senator would yield? I would hope that would mean that in January we would be moving on them because these have been vacant for some time as you and I said when we wrote to the President.

Senator GRASSLEY. Yes. I hate to be too advanced in what is going to happen, but I think it is a reasonable request and I think it is probably one that can be handled.

Chairman LEAHY. Thank you.

Senator GRASSLEY. I have questions. I am sorry. You got me all nervous there.

[Laughter.]

Chairman LEAHY. If I got Senator Grassley nervous, it is the first time in his life anybody has made him nervous. And the fact that he and I have been friends for 30 years, I don't think I make him nervous.

Senator GRASSLEY. All right. I'm going to start with Ms. Lee—well, no. This will be for both of you.

Mr. Marti, as you know, we have been working on patent reform legislation to deal with trolls. In your opinion, are they a problem? If confirmed, would you work with us on trying to resolve this issue and craft strong comprehensive legislation? Then I will have a question for Ms. Lee. Go ahead, Mr. Marti.

Mr. MARTI. Thank you, Senator Grassley. Abusive litigation is certainly a problem. I think we can all agree that a strong and well functioning patent system is something that is in this country's best interests and certainly if confirmed, I look forward to working with you, this Committee and with Congress to address abusive litigation of any sort. Thank you.

Senator GRASSLEY. Ms. Lee, kind of a gentle question, but an important one, what do you see as the most significant challenge facing the PTO?

Ms. LEE. I think it is the PTO's obligation to issue the very best quality patents possible. I think we have taken huge strides in reducing our backlog and pendency. Since January 2019, we have reduced the backlog in pendency by 20 percent despite on average 4 percent year-over-year increases and filings. So I think the next priority, the very next priority beyond that is making sure that we issue the very best quality patents and we have steps well on the way to handle that.

Senator GRASSLEY. Yes, and I should have asked you the same question that I asked Mr. Marti. Is patent troll a problem, and if confirmed, would you work with us on helping deal with that issue, possible legislation?

Ms. LEE. Yes, absolutely. There continues to be a problem with abuse of patent litigation and I believe that there can and should be further legislative improvements and I very much look forward to working with all of the Members and all of our stakeholders to striking the right balance.

Senator GRASSLEY. All right. Mr. Marti, your predecessor made significant progress in bringing stakeholders together to address the problem of Internet piracy through voluntary initiatives. However, there is still a lot to be done. What voluntary initiatives would you view as most critical in addressing Internet piracy and let me also ask the fifth question at the same time, what do you see as the most significant challenge at IPEC?

Mr. MARTI. Yes, thank you Senator Grassley. As I previously mentioned, what is important and effective IP strategies, it is a multipronged strategy. There must be various initiative that we undertake. Here the private sector must be part of the solution. I absolutely look forward to carrying on the good work of the office and believe that voluntary initiatives have a very important role in our fight against online piracy.

Specifically when it comes to online initiatives, the office's past initiatives that target payment processors with the transactions, monetary transactions to rogue websites, to criminal enterprises is of utmost importance that we get it right, that it is effective. If more needs to be done, then we need to do that.

Similarly, where money comes through by the ad networks, that is another area where voluntary initiatives have proved to be useful and if confirmed, I look forward to assessing those initiatives and seeing if additional advancement can be made.

Senator GRASSLEY. Ms. Lee, I get a lot of information and ask a lot of questions from IG reports. The IG report concerning time and attendance problems at the PTO stated that "The multiple hurdles and approval levels required to follow through with a time and attendance case along with senior management's reluctance to sustain proposed disciplinary or adverse action is a likely factor in the perception that the time and attendance abuse is overlooked and that it is fruitless to request any kind of records as part of an investigation. This leads to an erosion of supervisors following up with employee misconduct."

Do you agree with the finding of the IG report and if so, what specific hurdles would you work to remove as the Director of PTO to ensure that misconduct is appropriately addressed?

Ms. LEE. Thank you, Senator Grassley, for allowing me to address your concern and to answer your question.

Let me just say that my senior leadership team and I take the allegations and the findings in the report very seriously. We appreciate the work of the OIG and we are working closely with the IG's Office to discuss and implement many, if not all, of their recommendations.

Although these events occurred before my arrival at the USPTO, know that I will take all reasonable actions to strengthen the operations of the PTO, curtailing abuse of time and attendance and strengthening the telework program.

To give you a sense, as I understand, when these issues came to the attention of PTO management, they immediately took action to implement additional controls, policies, procedures and training. Upon my leadership, I asked my team to double down on their efforts to find ways to prevent time and attendance abuse. So in September, we just provided additional training to all patent managers on time and attendance abuse.

I have also established to cross-agency bureaus to prevent abuse and intervene early and to review the entire employee disciplinary process for consistency in application of our processes and I am also pleased to report that we have recently engaged the National Academy of Public Administration to review the entire Telework Program and its controls and to suggest additional best practices that we can implement to make sure that we have a telework program that is the gold standard.

Senator GRASSLEY. Mr. Chairman, could I ask one more question, then I will quit?

Senator WHITEHOUSE. Of course.

Senator GRASSLEY. All right. A follow-up on what you just told me and I do not question everything you said that you have done already, but specifically have there been any terminations of PTO supervisors or other agency employees as a result of alleged time and attendance abuse? If so, what role did you play in the disciplinary process? You probably have not heard me say, but I have said many times, that if there is abuse of the nature that we are talking about here, if heads do not roll, nothing really changes.

Ms. LEE. Thank you, Senator. There have been terminations. They occurred before my arrival at the office. However, I will say that if I find time and attendance abuse at the agency, we will take all appropriate actions and that includes anything from termination to suspension to letters of reprimand, whatever is appropriate given the circumstances.

Senator GRASSLEY. I will have questions for answer in writing. That will be the last of my questions today.

Senator WHITEHOUSE. All right. Thank you Senator Grassley. Senator Hirono.

Senator HIRONO. Thank you Mr. Chairman. I congratulate both of our nominees for what I hope will be your confirmation to these important positions.

I do have questions for Ms. Lee. You would be the first woman and the first person of color to head the Patent Office and that is historic. You, obviously, come to this path with a lot of background. I noted that particularly on the issue of patent trolls which this



Committee spent a lot of time on, it is a matter of listening to the stakeholders and striking the appropriate balance. I appreciate that kind of perspective very much because I think that is the challenge in addressing the patent troll issues, is balancing what we should do because one person's patent troll is another person trying to protect his or her patent.

Having said that, I know that you were the Director of the Silicon Valley Office and there are a number of satellite patent offices and I presume that one of the reasons that these satellite offices were opened was so that the Office of PTO could more directly work with the applicants, people who are submitting their applications. What have the satellite offices been able to do, particularly, to support the small inventors?

Ms. LEE. Thank you, Senator Hirono, for your question. I did have the pleasure of serving as the first Silicon Valley Satellite Office Director. To really create the vision of what would these satellite offices that you, Members of Congress, with your foresight created—and let me just say Senator, those are incredible offices both in terms of providing the services of the USPTO to our local innovation communities.

We have small startups, small entrepreneurs who do not have the resources to come to Washington to interview their patent applications or to learn about the patent rules or to provide input on what the PTO does. Now with these four satellite offices located throughout the country in Denver, Dallas, Detroit and the Silicon Valley, what it means is that all of our innovators, large and small now have easier access to both the educational content that we provide. We hear their input more directly, they are able to examine or interview their cases either via video or in person and that makes a huge difference. That means we issue better quality patents more quickly. So I think there's all upside to the satellite offices. And I can go on and on but I will stop right there.

Senator HIRONO. As a result of these satellite offices, are you getting more applications from the small inventors or has that been pretty much a stable situation or are these offices really focused much more on the quality of the patent applicants?

Ms. LEE. So they are just coming online so it is too soon to say how many more but we have a lot of education and outreach. So we are talking to small inventors on the ground, informing them and educating them about the patent process and the advantages of and the services that we offer. So I anticipate that we will be getting more, but I also anticipate that we will be able to issue better quality patents faster because they are more informed about our process. We understand their technology better and all of that just leads to—

Senator HIRONO. Is there any plan to open more satellite offices? We would like one in Hawaii.

[Laughter.]

Senator HIRONO. As would everybody else here probably, in their States.

Ms. LEE. I appreciate the question, Senator Hirono. I don't know of any current plans and I know we are very busily working to implement and open the four satellite offices of which we have all of

them open in temporary locations and two open in a permanent and we are looking to open the other two permanently.

Senator HIRONO. Well, you come from a family of engineers and you, yourself, have a background in science and technology, so that is one of the ways that our country can remain competitive. Are there things that PTO is doing to support STEM education for our young people?

Ms. LEE. Yes. Thank you, Senator Hirono, for the question. I care deeply about STEM education to our youngsters and the USPTO has a whole range of initiatives, including for example, I had the pleasure—and one of the most pleasurable opportunities I had was going down to Camp Invention which was an elementary school program in Alexandria, Virginia. We basically partner with Invent Now. We have school aged children, ages 12 and under, and they are basically given literally a pile of junk, boxes, motors, wheels and they are asked to create something and write their inventions down in a notebook and really provide a patent disclosure.

So I think getting more women and all aspects of our society involved in STEM, having come from that background, is hugely beneficial to our country, our economy and the USPTO has many initiatives underway, including things like Camp Invention and including an effort to have a Girl Scout patch for IP and innovation. So I am very pleased about those efforts and I look forward to continuing and expanding those efforts.

Senator HIRONO. Thank you. Thank you Mr. Chairman.

Senator WHITEHOUSE. I now turn to Senator Hatch who is a distinguished leader on these intellectual property issues and is my Co-chair of the Antipiracy Caucus. Senator Hatch.

Senator HATCH. Thank you so much, Mr. Chairman. I also appreciate your leadership in these areas.

Ms. Lee, some have argued that 35 U.S.C. § 101 which governs patent eligibility should be reformed for the good of the patent system. Could you tell me your thoughts on that particular issue?

Ms. LEE. Thank you, Senator Hatch, for your question. The case law is undergoing a lot of change in the area of patent eligible subject matter. The Supreme Court has issued many rulings. We are in the process of interpreting those rulings and issuing guidance and as to whether or not a legislative solution is appropriate, I think we should be open to and if confirmed, I wouldn't be open to evaluating everything including legislation on that issue and others because it is really the totality of all of these issues that will make a difference I think.

Senator HATCH. We need your help on that if it comes to that, but you can make a lot of internal changes that would help there too, it seems to me. For the better part of the year, Congress worked toward a legislative solution to combat patent trolls which has been raised here. I am determined with many of my Committee colleagues to make such patent reform a priority early this next year.

Just tell me what you think USPTO's rule should be in this process and do you agree that the USPTO does not have subject matter expertise or jurisdiction over proposals to reform pleading standards, discovery, fee-shifting and recovery of awards?

Ms. LEE. Thank you, Senator Hatch, for your question. By statute, the Director of the United States Patent and Trademark Office is to advise the President through the Secretary of Commerce on Domestic and certain international intellectual property matters and policy matters.

At the request of Members of Congress, we do provide input, but that is at the request.

Senator HATCH. Do you agree that USPTO does not have subject matter expertise or jurisdiction over proposals to reform pleading standards, discovery, fee-shifting and recovery of awards, all legal issues?

Ms. LEE. We work with our stakeholders, we get their input and at your request, we facilitate and help you in your efforts.

Senator HATCH. What are your thoughts about the proposed shift from the broadest reasonable interpretation, the BRI, at the USPTO's Patent Trial and Appeal Board to a district court style claim construction? And I might add, how does changing the BRI standard help in combating patent trolls?

Ms. LEE. Thank you very much for the question, Senator Hatch. That was one of the issues that was considered in the last round of patent reform discussions and it is the standard by which the USPTO interprets the scope of the claims and the question is sort of how broad or narrowly—the broader the interpretation, the more one can uncover. So again, I think this is a very important topic and it is one of the many topics that if we move forward in the 114th Congress, which I understand that is likely to happen, that we look forward to having conversations with our stakeholders about that and with all of you and working together with all of you on that.

Senator HATCH. Well, thank you. In view of the Supreme Court's recent decision in *Alice Corporation v. CLS Bank International*, do you know when the USPTO plans to issue concrete guidelines to examiners? And as I am sure you can appreciate, there is a mounting backlog of applications caused by this delay.

Ms. LEE. Thank you, Senator, for the question. When *CLS Bank* came out around the summertime, we immediately issued some preliminary guidance and since then, we have been receiving input from the public on that guidance and we are working very hard. We have reviewed it and we have updated our guidance, in fact, as recently as last Friday, there was a new case law development from the Federal Circuit and we have incorporated that into our guidance and I am pleased to say that it is working its way to the Federal Register notice for publication. The public will be able to see it. We look forward to working with the public to receive their comments on our updated guidance.

Senator HATCH. Right. Mr. Marti, we congratulate you on this as well as Ms. Lee. These are very important positions and I look upon them as extremely important, myself.

Let me just ask you one question. As you may know, there is strong bipartisan bicameral support for creating a harmonized uniform Federal standard for protecting trade secrets.

Here in the Senate, Senator Chris Coons and I introduced the Defend Trade Secrets Act and in the House, Representative George Holding introduced the Trade Secrets Protection Act. Now through

our collective efforts, we have shed light on an often-overlooked form of intellectual property.

If confirmed, we will need your support in pushing this critically important legislation forward next Congress. Can I count on you to help us do that?

Mr. MARTI. Yes, Senator. As a practitioner in the private sector, I appreciate the fact that trade secrets is often overlooked. Infringement of any intellectual property, but particularly trade secrets, is a threat to dichotomy, the news that we have been seeing trickling out, unfortunately it seems like week, after week, after week of U.S. innovation being stolen is an issue that needs to be addressed and addressed aggressively and if confirmed, I look forward to working with Congress in an appropriate manner.

Senator HATCH. Mr. Chairman, if I could just ask a followup on that. The lure of advertising revenue continues to fuel online piracy across the globe. Now a recent study examined 600 websites around the world dedicated to the theft of intellectual property. The study concluded that the websites generated an estimated \$227 million per year in advertising revenue.

Now for sometime the International Creativity and Theft Prevention Caucus, on which I serve as the Co-Chairman, has called on the advertising industry to cutoff these profits and cripple the capabilities of these bad actors on the internet.

Now through voluntary best practices, we have seen progress in combating online piracy. Have you given much thought to how you might collaborate with industry stakeholders to keep advertising dollars off of illegitimate websites?

Mr. MARTI. Yes, thank you, Senator. Companies do not want to see their own ads appear on these rogue websites and the ad networks do not want to place them there. So it is important that we get together with all stakeholders, that includes internet companies, the ad networks, the payment processors to understand how we can have an effective and meaningful solution to make sure that these ads are not placed there in the first place.

The IPEC Office did move forward with voluntary initiatives and I think that is an important first step, but there certainly are some additional steps to go.

If confirmed, I look forward to assessing the existing voluntary initiatives in this space and bringing these and new stakeholders back to the table and see what more can be done to ensure that we stamp out payments to these rogue websites.

Senator HATCH. Well, thanks to both of you and thank you, Mr. Chairman. I appreciate that.

Senator WHITEHOUSE. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. Thank you to both of you. I am excited for you for your new jobs. It could not be more important.

Senator Franken and I have a State where we have one company where we actually have more patents than they have employees, that would be 3M. So they have a patent for each employee.

We care a lot about intellectual property. Making things, inventing things is one of the reasons that we actually have the lowest unemployment rate in our metro area of any metro area in the United States. And our unemployment rate for our State is down

to 3.9 percent. I believe it is really—given that we do not have some major energy source, like our neighbors in North Dakota—it is a combination of a diverse economy but it is also a lot about this idea that you can come up with new technology and invent new things and cross new frontiers and that is what has made this country's economy strong. So that is why I see your jobs as so important.

Ms. Lee, some of my colleagues have addressed the issue of excessive litigation in the patent troll issue. I appreciated the work of Senator Leahy on this and I was in the group that was trying to craft a bill so that we could go forward. It was disappointing to me that we were not able, despite Senator Leahy's valiant efforts, to get that done and I hope that we are going to get it done in the future.

Prior to your current service with the Patent and Trademark Office, you served as Deputy General Counsel at Google. How did that experience inform your outlook on issues faced at the PTO? And I think you know that while some patent holders are big tech companies like Google, others are industries that are smaller and how do you work with some of the other industries around besides tech?

Ms. LEE. Thank you, Senator Klobuchar, for your question. I guess I would say that my background and experience is very diverse. I have been in the intellectual property field my entire career, going on 25 years now. I have worked for a whole range of interests. I have asserted patents where a small innovator came up with an invention, invested money in it, developed a company around it and found a big company infringing it. I have represented defendants in patent litigation cases. I have bought, licensed, sold and wrote patents, so I would like to think that all of those experiences through a wide range of industries come to bear and would help me do my job if confirmed as director of the USPTO.

Senator KLOBUCHAR. All right. Thank you. As part of the America Invents Act, there is a grace period for public disclosure of inventions prior to the filing of a patent application. But I know that intervening disclosures by third parties can have an impact on the grace period. Do you have any comments on the practice and do you see any changes that are needed?

Ms. LEE. It is an issue that we are looking at and that we were discussing with our counterparts across overseas as well as with our stakeholders. So I think I would like to have further conversations on that, but I know it is an important issue. If confirmed, I look forward to digging into it more deeply and coming up with a sensible proposal.

Senator KLOBUCHAR. Thank you. I appreciate that. The Supreme Court considered a number of different patent cases in the last term on issues from fee-shifting to patent eligible subject matter. How will these decisions impact your work and how is the PTO working to apply the *Alice* decision and the follow-on case in the Federal Circuit, *DDR Holdings*?

Ms. LEE. Yes, the Supreme Court has been very active in patent cases, including panel eligible subject matter and we have to give guidance to 8000 of our examiners as they examine patents on a daily basis. So this is a very real issue for the United States Patent

and Trademark Office and as soon as that one came down from the Supreme Court, we issued preliminary guidance. As I had mentioned earlier, we put that out for the public comment. We have received those comments. We have updated the guidance and I have signed and the public should expect to see a Federal Register "Notice" on our updated guidance on patent eligible subject matter, including on the implications of the *Alice* case. So we look forward to working with the public on an ongoing basis to iterate, to get it right provided we stay within the confines of the case law and the laws of Congress.

Senator KLOBUCHAR. Okay. That is a good idea. There has been a lot of discussion about the backlog of patent applications at the PTO. I know that some progress has been made. What more can we do to reduce the backlog and do you view this issue mostly as an issue of resources and fees or are there other things that can be done?

Ms. LEE. Thank you, Senator Klobuchar, for that question. Members of Congress have been good enough with their foresight, through their America Invents Act, to give us fee-setting authority. So we now are in a position where we get the full amount of our estimated fees via appropriations this year and hopefully in subsequent years as well. So that has helped tremendously.

What do we intend, if confirmed, to do to reduce the backlog further? I will say that, as I mentioned earlier, there has been a 20 percent reduction despite a 4 percent year-over-year increase in filing, but we are hiring additional examiners including through our satellite offices. This is the first time in U.S. history where we can hire talent outside of the DC area and there is lots of technical talent in all of the regions where the satellite offices are.

Senator KLOBUCHAR. Surprise.

[Laughter.]

Ms. LEE. So it is a real advantage, I think, for the agency in terms of reducing the backlog.

Senator KLOBUCHAR. I had never thought that through. That is a very good idea.

Ms. LEE. Right. So hiring and being efficient in our prosecution and working with our stakeholders, we look to further reduce the backlog.

Senator KLOBUCHAR. And I am just going to leave you with one example and you do not have to really respond to it, but that I heard at a roundtable I did last year on patent issues and trying to get the reform done. This was with patent stakeholders in Minnesota and it is about an infusion pump used to administer critical medicines to patients, including premature babies. The maker of these pumps has been sued by a patent troll who is claiming that the infusion pump infringes on a fuel delivery system that is intended for tractor-trailers.

So I just want to leave you with that. We can send you the details, but those are the kinds of things we're seeing all of the country and whatever ideas you have about how we deal with this, I just do not want to slow down what I see as an increasing economic boom when it comes to new inventions and making things again in America. So thank you very much.

Senator WHITEHOUSE. Senator Franken.

Senator FRANKEN. Thank you. I just want to make something clear that Senator Klobuchar talked about. 3M does not have a patent on each employee.

[Laughter.]

Senator FRANKEN. It is not that kind of company. We have one for every employee.

Senator KLOBUCHAR. Good. Thank you for that. I appreciate that.

Senator FRANKEN. You are welcome.

Senator KLOBUCHAR. And he invented the Post-it Note. No, I'm kidding.

[Laughter.]

Senator FRANKEN. Well, that is an issue I have with 3M. Mr. Marti, congratulations on your nomination. Part of the mission of IPEC is to address the problem with counterfeit medicines that may enter the US supply chain. This is an area I have worked on in the HELP Committee. I helped write a bill on compounded medicines. That bill was combined with another bill on the drug supply chain, and I was actually proud that we got that done in the law.

Now, counterfeit drugs are those that are produced and sold unlawfully with the intent to deceive consumers about the drugs' origin, authenticity or effectiveness. These drugs pose real health risks. They may be contaminated or contain the wrong active ingredient or none at all. They may have the right active ingredient but the wrong dose.

Partly because of the legislation that I mentioned, the FDA has been actively working on this issue and drug manufacturers and distributors are increasingly investing in countermeasures such as authentication technologies to try to minimize the impact of counterfeit drugs. Mr. Marti, what do you see as IPEC's role and what steps would you anticipate taking on this important issue?

Mr. MARTI. Thank you, Senator Franken. I share your view. I am troubled by the significant threat that counterfeit pharmaceuticals pose to the American consumer.

Intellectual property theft is troubling, but when it deals with issues like pharmaceuticals and frankly, even automotive parts, electronics that pose a threat to the health and safety of our citizens, more needs to be done. IPEC, I believe, serves a very important role to help coordinate these functions. As you are aware, my predecessor focused on some voluntary initiatives including CSIP, the Center for Safe Internet Pharmacies.

In 2013, CSIP members took down or blocked 5 million sites that were violating policies relating to the sale of prescription drugs. And more recently, CSIP participated with FDA and law enforcement officers to shut down more than 18,000 illegal pharmacy websites. It is that type of sharing of information and coordination across Federal Governments and across Federal Agencies that is necessary to combat this serious issue.

Senator FRANKEN. Well speaking of shutting down websites—this is something maybe we can work together on outside of this hearing—we had an attempt a while ago, and it has been mentioned here a couple of times, intellectual piracy and we have touched on voluntary actions on intellectual property and on websites that sell intellectual property. Do you see any role, possibly, in again coming

back to legislation to do something to create some framework to use the law to stop that?

Mr. MARTI. Thank you, Senator. If confirmed, I look forward to carrying out the statutory responsibilities at the office that is helping to coordinate the effective enforcement of intellectual property. That does require a multipronged approach and for us to look, as you mentioned, certainly at voluntary initiatives but also many other aspects. To the extent that there may be additional legislative solutions to some of these issues, then I look forward to partnering with this Committee and with Congress to do so.

Senator FRANKEN. I would like to talk to you about that.

Ms. Lee, also congratulations. You said your goal is to reduce the total time that patent applications are pending to approximately 21 months by 2018. What are the main steps you will take to accomplish that and how will you balance those efforts with the important work you have been leading to improve quality standards for those examinations?

Ms. LEE. Thank you, Senator Franken, for the question. We will increase our hiring. Last year, we hired 1000 examiners and we are projected to hire at least 750 in 2015, including, as I had mentioned, through our satellite offices.

We intend to continue with what we call efficient prosecution which is, the examiner identifies all grounds for rejection upfront and early so that there can be a more informed discussion earlier on. We intend to encourage and promote additional interviews between applicants and the office to, again, more quickly identify what is the patent eligible subject matter and issue the patents more quickly.

We are also working with our international counterparts on worksharing. So there is a lot of redundancy in what the patent offices do throughout the world and we are not rubber stamping it, but we can certainly benefit by leveraging some of the work that they have done and then adding more to it.

So those are some of the initiatives we have underway and if confirmed, I would look forward to continuing and expanding to reduce the backlog and pendency.

Senator FRANKEN. Thank you.

Senator WHITEHOUSE. Senator Durbin.

Senator DURBIN. Thank you very much, Mr. Chairman and thank you for chairing this hearing.

I never took a patent law course in law school. I remember there was one fellow there who was an engineer who said he was going into patent law and I had to ask somebody what that meant. So I do not profess to be an expert, though I sit on a panel that is supposedly charged with the responsibility of evaluating and changing, if necessary, the patent law.

The first round in 2011, when we did the America Invents Act, was an eye-opener for me. I went back to my State of Illinois, which is very diverse in terms of manufacturers and universities and inventors and so forth, and I was determined to make sure that whatever I did met with their approval because I think it is an important part of the growth of the American economy.

So they proposed a number of amendments to the original act. I worked with the Chairman, added those amendments in good



faith and then proceeded to vote for the bill. They all called me and just went ballistic, said why did you vote for that bill? And I said it included the changes you wanted. They said, but it is a bad bill. It is one of those eye-opening moments when you say I wonder if there is a good bill out there somewhere.

The America Invents Act passed. I understand it was the first major patent reform in over half a century. I do not know if that is accurate, but I will take that at face value. Now a few years later, we were asked to amend it again. I stepped back and said this time I am going to invite the world to come in and tell me what they think about the change. The world showed up and told me, for the most part, they thought it was unnecessary and premature.

This morning I received a letter, maybe others did as well, from a diverse coalition. This coalition included major universities, the Association of American Universities, Public and Land-grant Universities, University technology managers, American medical colleges, the biotech industry organization, the Innovation Alliance, the medical device manufacturers, pharmaceutical research and manufacturers, and others signed a letter and basically said slow down. Things are changing dramatically.

Let me read one paragraph of that letter. I would like, Ms. Lee, if you would respond to it. After summarizing all of the things that have occurred over the last 7 years, "Taken together these judicial and administrative developments and the plunge in patent litigation rates have fundamentally changed the landscape which patent legislation should be considered. As Congress considers potential changes to the patent system that threaten the constitutionally guaranteed property rights of innovators, it must assess the full affects of the AIA, changes to the Federal Rules of Civil Procedure's, case law developments and administrative developments." They are urging caution. We are in a time of change, from their point of view. Do you agree?

Ms. LEE. Thank you very much, Senator Durbin, for your question. I could not agree more. The patent landscape that we are living in, the patent environment is extremely dynamic. Probably the issues mentioned in your letter, changes occurring in the courts, lots of changes occurring at the U.S. Patent and Trademark Office as well.

We implemented the AIA post-grant review proceedings. They are very popular. Stakeholders are filing petitions. So all of this needs to be taken into account as we carefully and cautiously determine what additional changes need to occur. And changes can occur through any number of channels. They can occur judiciously, they can occur legislatively and they can occur administratively through the Patent Office, through the FTC.

But I look forward to, if confirmed, working together with all of the stakeholders and all of the Members of Congress to strike that balanced meaningful reform.

Senator DURBIN. Ms. Lee, what is a patent troll? As I go around and speak to people involved in this, many people call them advocates. Others call them trolls. Some say it is a systematic exploitation of our existing system. Others say the only way to protect intellectual property is litigation, particularly, when it is David

versus Goliath. What is your definition of patent troll and do you see this as a problem?

Ms. LEE. So thank you for the question, Senator. I do not think it is productive to define patent troll. I think people have different definitions. I think the important thing is to focus on abusive behavior and work together to find out what we can do to curtail abusive behavior.

Senator DURBIN. Do you note the change in patent litigation, the rate of patent litigation being filed?

Ms. LEE. I understand that there is a study that has been conducted. It is based upon a limited time period. I think we should definitely be keeping our eye on that because as I said, the patent landscape is very dynamic. There are lots of changes occurring including many at the PTO. So I think we absolutely need to keep our eye on this one.

Senator DURBIN. Thank you. Thank you, Mr. Chairman.

Senator WHITEHOUSE. Ms. Lee, Mr. Marti congratulations on your appointments and congratulations on the exemplary performance through a tedious hearing of Amanda, Alyssa, and Myles. As a parent, I appreciate how well behaved they have been through what must be a really tedious time for them.

We have a number of letters supporting your nominations, including for Mr. Marti, letters from the International Trademark Association, the Chamber of Commerce, the Copyright Alliance, the Motion Picture Association of America, the National Music Publishers Association, and the American IP Lawyers Association. For Ms. Lee, from the International Trademark Association, the American IP Lawyers Association, Engine Advocacy, the Asian-Pacific Islander American Chamber of Commerce and Entrepreneurship Group and 39 general councils and chief legal officers of American companies coordinated through the National Asian Pacific American Bar Association as well as a group of 220 attorneys, academics and executives in the high-tech pharmaceutical and biotech and semiconductor fields. So without objection, those will all be put into the record.

[The letters appear as submissions for the record.]

Senator WHITEHOUSE. Mr. Marti, one of the things about being a Senator is you get a 6-year term and you get a certain amount of time in. I can remember Ms. Espinel coming here some time ago to talk about the progress that she intended to make on dealing with the criminal activity that steals American intellectual property, particularly entertainment content, and provides it to viewers and that they were going to work really hard with other American corporations that were supporting that activity to try to knock it down.

So while we were having this hearing, I picked up my iPad and I went to Google and I Googled pirate movie and Google gave me the Pirate Bay, which is an illegal enterprise operating out of Sweden. And if you go to the page where you would get access to the pirate content, it says "Get Access Now" and underneath it you have the flags of Visa, of MasterCard, of American Express, of Citrus and of PayPal. And below that, it tells you all of the devices that it works on and shows you the logos of Apple, Android and so forth.

It looks to me like this criminal activity is still being wrapped around with the apparent support of a wide variety of American corporations. Explain to me how there has been progress made.

Mr. MARTI. Thank you, Senator. Criminal actors, criminal enterprises have no limit.

Senator WHITEHOUSE. They actually do. There are ways in which these companies could go to court and try to knock this stuff down. There are ways in which prosecutors can have discussions with companies about aiding and abetting offenses and about being accessories to offenses. There is a lot that can be done in this area, it seems to me.

Mr. MARTI. Absolutely. I fully agree. What I meant to say is that these criminal enterprises will continue to put up some sites and wrap themselves with some level of authority by putting up some logos of some companies and pretending to be something they are not. So it does require a forceful and coordinated IP enforcement effort to continue to go after site, after site, after site that does engage in criminal activities.

Senator WHITEHOUSE. You were the former counsel to Google in these areas, were you not, Ms. Lee?

Ms. LEE. I was deputy general counsel and head of patents and patent strategy.

Senator WHITEHOUSE. Does Google have the capability to know that it is alerting users to pirate websites and find a way to take them down? That would seem to be within its technical capacity.

Ms. LEE. So, Senator I do not know the answer to that question. I do not know the answer to that question.

Senator WHITEHOUSE. You would think that if you guys were really pushing this issue very hard she would know the answer to that question, having been deputy general counsel to Google. So I hope that this effort will get some added momentum.

There are people whose jobs depend on this and there are industries that will succeed or fail based on our ability to have the rule of law prevail in this area and the vacancy that has existed in this position now for more than a year is not your fault, but it is not a signal of great attention. And when I am looking at the exact kind of website that Ms. Espinel talked about trying to get rid of through a voluntary process, it causes me some real concern about whether that voluntary process is actually working and getting the attention that it deserves.

Mr. MARTI. Senator, progress has been made but there is certainly more work to be done and if confirmed, I look forward to carrying out the statutory responsibilities of the office. Thank you.

Senator WHITEHOUSE. The last thing that I will mention is that we had long conversation about the intellectual property theft that was taking place, not so much of entertainment content, but of technical specifications, chemical formulas, manufacturing processes and so forth, largely China driven. That appears to be their policy, to increase their technical and manufacturing capacity by stealing from American companies largely through a cyber means of access.

The Department of Justice finally brought an indictment against PLA officials and that seems to have had a somewhat salutary effect. Would you comment on what you see as the effect of the DOJ

indictment of the Chinese officials who are actively engaged in stealing American intellectual property for the purpose of advancing Chinese business interests?

Mr. MARTI. Thank you, Senator Whitehouse. Yes, the theft of this type of data, technical know-how, trade secrets undermines national security and puts jobs at risk. The IPEC office, under statute cannot direct law enforcement action, but certainly can help coordinate, bring to light and help share information across some Federal Agencies.

From where I sit in the private sector, I certainly have read and spoken to some clients about those indictments. Like you, many of them cheered the indictments as showing that the U.S. is serious and will not tolerate this type of very critical and serious threat. Certainly others in industry show some concern that there might be some retaliation when the Government takes these actions.

I trust that the Department of Justice and the Federal Government have taken all of these issues into account and felt that it was still necessary to call out these bad actors who have been engaged in trade secret misappropriation and IP theft.

If confirmed, I look forward to working with those in other agencies for an effective IP policy going forward.

Senator WHITEHOUSE. Good. Well, I wish you both well as you go forward. I think it was very good to see bipartisan support and you also saw key and substantive interests in the areas that you will be entering, so get ready. And we hope that if your nominations cannot be cleared in this particular Congress, that they will be taken up and rapidly cleared in the Congress ahead of us.

Thank you for your time. The hearing record will stay open for 1 week and I wish you both well. Congratulations.

[Whereupon, at 11:29 a.m., the Committee was adjourned.]

[Additional material submitted for the record follows.]

# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Witness List

Hearing before the  
Senate Committee on the Judiciary

On

“Executive Nominations”

Wednesday, December 10, 2014  
Dirksen Senate Office Building, Room 226  
10:00 a.m.

Michelle K. Lee, to be Under Secretary of Commerce for Intellectual Property and Director of  
the United States Patent and Trademark Office

Daniel Henry Marti, to be Intellectual Property Enforcement Coordinator, Executive Office of  
the President

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UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Michelle Kwok Lee

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

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO)

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: 600 Dulany Street -- MDW 10D44, Alexandria, VA 22314

Residence: Falls Church, VA

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

1965; Santa Clara, CA

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.

Stanford Law School, Stanford, CA

Attended: 9/1989 – 6/1992

Doctorate of Jurisprudence received on June 14, 1992

Massachusetts Institute of Technology, Cambridge, MA

Attended: 9/1984 – 6/1989

Master of Science in Electrical Engineering and Computer Science received on June 5, 1989

Bachelor of Science in Electrical Engineering received on June 5, 1989

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.

All entries listed in response to Question #6 are positions for which I receive or did receive compensation. My responses below are to the best of my knowledge.

U.S. Patent & Trademark Office, 600 Dulany Street, Alexandria, VA 22314

Dates: 2014 - Present

Title: Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent & Trademark Office

U.S. Patent & Trademark Office, 345 Middlefield Road, Bldg. 1, Menlo Park, CA 94025

Dates: 2012 - 2014

Title: Director of the Silicon Valley United States Patent & Trademark Office

Google Inc., 1600 Amphitheatre Parkway, Mountain View, CA 94043

Dates: 2003 – 2012

Titles: Deputy General Counsel, Head of Patents and Patent Strategy; prior to that, Associate General Counsel, Head of Patents and Patent Strategy; prior to that, Senior Patent Counsel

United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22313

Dates: 4/18/2011 – 10/6/2011, Reappointed 11/22/2011 - 11/4/2012

Title: Member of the Patent Public Advisory Committee ("PPAC")

Fenwick & West LLP, Silicon Valley Center, 801 California Street, Mountain View, CA 94041

Dates: 1996 - 2003

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Title: Partner; prior to that, Associate.

Keker & Van Nest LLP, 633 Battery Street, San Francisco, CA 94111

Dates: 1994 - 1996

Title: Associate

U.S. Court of Appeals for the Federal Circuit, 717 Madison Place, N.W., Washington  
D.C. 20439

Dates: 1993 - 1994

Title: Judicial Law Clerk to Judge Paul R. Michel

U.S. District Court for the Northern District of California, 450 Golden Gate Avenue,  
San Francisco, CA 94102

Dates: 1992 - 1993

Title: Judicial Law Clerk to Judge Vaughn R. Walker

Skjerven, Morrill, MacPherson, Franklin & Friel LLP, 25 Metro Drive, Suite 700, San  
Jose, CA 95110

Dates: Briefly for about 2 weeks in August 1992, after taking the bar exam and  
before starting my clerkship on the U.S. District Court for the Northern District  
of California.

Title: Summer Associate

Flehr, Hobach, Teet, Albritton, 850 Hansen Way, Palo Alto, CA 94304

Dates: Spring 1992, during my last semester at Stanford Law School.

Title: Part-time Associate

Fenwick & West LLP, Silicon Valley Center, 801 California Street, Mountain View, CA  
94041



Dates: First half of summer of 1991

Title: Summer Associate

Wilson, Sonsini, Goodrich & Rosati LLP, 650 Page Mill Road, Palo Alto, CA 94304

Dates: Second half of summer of 1991

Title: Summer Associate

Morrison & Foerster LLP, 425 Market Street, San Francisco, CA 94105

Dates: Summer 1990

Title: Summer Associate

Hewlett-Packard Company, 1501 Page Mill Road, Palo Alto, CA 94304

Dates: Summers 1988 and 1989 and Fall semester 9/88-1/89

Title: Engineering 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, nor have I registered for selective service.

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.

The information provided in response to Question 8 is to the best of my knowledge based upon review of my files and my recollection.

Member, Tau Beta Pi and Eta Kappa Nu Engineering Honorary Societies.

National Science Foundation Fellowship for Graduate Studies in Computer Science.

Asian Law Alliance's 2011 "Business Impact Honoree" Award in recognition of professional accomplishments and contribution to the Asian community

Listed by Intellectual Asset Management in 2011 as one of the top 50 people, companies or institutions to have helped shape the intellectual property landscape.

The San Francisco Business Times and Silicon Valley/San Jose Business Journal's 2012 Bay Area Corporate Counsel Award for Best IP Lawyer

Silicon Valley Business Journal's 2013 Top Most Influential Women in the Silicon Valley

Selected by The Recorder as one of the Top 50 Women Leaders in Tech Law in 2014

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.

The information provided in response to Question 9 is to the best of my knowledge based upon review of my files and my recollection.

Federal Circuit Bar Association, Board Member (2010-Present), also Co-Chair of the In-House Subcommittee (2009-2010)

California State Bar Association, at various times member of the litigation and intellectual property law sections of the California Bar (1992-Present with a brief gap in 1994 for the reason stated in response to Question 10.a below)

Intellectual Property Owners Association, Board Member (various months in 2011 and 2012)

Association of Corporate Patent Counsel, Member (2012)

Advanced Patent Law Institute Planning Committee Member (various years 2004-2010)

Stanford Law School – Board of Visitors (2009 - 2012)

Santa Clara Law High Technology Institute Advisory Board (2009-Present)

The George Washington University Law School IP Advisory Board, Member (2011-Present)

National Asian Pacific American Bar Association, Member (approximately 2010-2011)

ChIPs (“Chief IP Counsels”) – Co-founder and Board Member (2004-Present)

Local Patent Rules Advisory Committee for Northern District of California, Member (2006-2012)

Magistrate Judge Merit Selection Committee for Northern District of California,  
Member (2009-2010)

IP Counsel Cafe Advisory Board (2008-2012)

Intellectual Property Section of the Bar Association of San Francisco's Barristers Club  
(Chair 1996-1997 and Vice-Chair 1995-1996)

Silicon Valley Intellectual Property Law Association, Participant (approximately  
1998-2000)

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.

California State Bar (No. 160835), admitted December 14, 1992, and active until January 1, 1994, when I voluntarily chose inactive status during my 1 year clerkship at the U.S. Court of Appeals for the Federal Circuit; then active again on November 15, 1994, when I voluntarily chose active status when I began private practice at Kecker & Van Nest.

District of Columbia Bar (No. 446526), admitted May 5, 1995, as an inactive member. On October 26, 1999, I voluntarily withdrew membership from the DC bar because I practiced exclusively in California.

United States Patent and Trademark Patent Bar (Registration No. 40,695), admitted August 4, 1997. Voluntarily changed to inactive status on November 8, 2012 to serve as Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent & Trademark Office.

- 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.

To my knowledge, there have been no lapses in membership to any of the courts listed below.

Note: This list does not include admissions *pro hac vice*.

U.S. Court of Appeals for the Federal Circuit, admitted July 11, 1994.

U.S. Court of Appeals for the Ninth Circuit, admitted January 27, 1993.

U.S. District Court for the Northern District of California, admitted December 14, 1992.

U.S. District Court for the Eastern District of Michigan, admitted December 14, 2005.

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, conference, or publications.

The information provided in response to Question 11 is to the best of my knowledge based upon review of my files and my recollection.

Asian Pacific Fund, Board Member (2011-2012)

MIT Club of Northern California, Participant (1988-2007)

Monte Jade Asian American Science and Technology Association, Asian American Chapter, Participant (approximately 1995-1998)

Asian American Manufacturer's Association, Participant (approximately 1996-2004)

Churchill Club, Participant (approximately 2002-2003)

Healthy Young Adults (HYA), Participant (1998-2001)

- b. 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, none of the organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or

national origin.

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.

To answer this question, I have searched my files and papers and conducted an electronic Internet search for information and materials responsive to this question. Although I have sought to compile a list as complete as possible, there may be other published material that I have been unable to remember or identify.

*A Lean-Forward Approach to Intellectual Property Leadership*, published in Silicon Valley Leadership Group's "Game Changers" publication (September 2014). Copy of text provided.

*Expanded 2014 Edison Scholars Program to Focus on Litigation Issues*, (September 16, 2014).

[http://www.uspto.gov/blog/director/entry/expanded\\_2014\\_edison\\_scholars\\_program](http://www.uspto.gov/blog/director/entry/expanded_2014_edison_scholars_program).

*USPTO's Plain Language Toolkit Empowers Public on Patent Litigation*, (September 15, 2014). [http://www.uspto.gov/blog/director/entry/uspto\\_s\\_plain\\_language\\_toolkit](http://www.uspto.gov/blog/director/entry/uspto_s_plain_language_toolkit)

*The USPTO-MBDA Webinar Series Continues in August*, (August 5, 2014).

[http://www.uspto.gov/blog/director/entry/the\\_uspto\\_mbda\\_webinar\\_series](http://www.uspto.gov/blog/director/entry/the_uspto_mbda_webinar_series)

*Help Improve our AIA Trial Proceedings*, (July 14, 2014).

[http://www.uspto.gov/blog/director/entry/help\\_improve\\_our\\_aia\\_trial](http://www.uspto.gov/blog/director/entry/help_improve_our_aia_trial)

*Continued Progress Toward Implementing Patent Quality Executive Actions*, (July 3, 2014).

[http://www.uspto.gov/blog/director/entry/continued\\_progress\\_toward\\_implementing\\_patent](http://www.uspto.gov/blog/director/entry/continued_progress_toward_implementing_patent)

*Update on Our Satellite Offices*, (June 16, 2014).

[http://www.uspto.gov/blog/director/entry/update\\_on\\_our\\_satellite\\_offices](http://www.uspto.gov/blog/director/entry/update_on_our_satellite_offices).

*USPTO to Launch a Glossary Pilot Program that Will Support a Better Patent System*,

(June 12, 2014). [http://www.uspto.gov/blog/director/entry/uspto\\_to\\_launch\\_a\\_glossary](http://www.uspto.gov/blog/director/entry/uspto_to_launch_a_glossary).

*An Update on Sustainable Funding for the USPTO*, (June 9, 2014).  
[http://www.uspto.gov/blog/director/entry/an\\_update\\_on\\_sustainable\\_funding](http://www.uspto.gov/blog/director/entry/an_update_on_sustainable_funding).

*National Day of Civic Hacking 2014*, (May 27, 2014).  
[http://www.uspto.gov/blog/director/entry/national\\_day\\_of\\_civic\\_hacking1](http://www.uspto.gov/blog/director/entry/national_day_of_civic_hacking1).

*Progress Continues with Our Patent Trial and Appeal Board*, (May 2, 2014).  
[http://www.uspto.gov/blog/director/entry/progress\\_continues\\_with\\_our\\_patent](http://www.uspto.gov/blog/director/entry/progress_continues_with_our_patent).

*World IP Day*, (April 25, 2014).  
[http://www.uspto.gov/blog/director/entry/world\\_ip\\_day](http://www.uspto.gov/blog/director/entry/world_ip_day).

*Inspiring the Next Generation of Investors*, (April 17, 2014).  
[http://www.uspto.gov/blog/director/entry/inspiring\\_the\\_next\\_generation\\_of](http://www.uspto.gov/blog/director/entry/inspiring_the_next_generation_of).

*An Update on Our Satellite Offices*, (March 25, 2014).  
[http://www.uspto.gov/blog/director/entry/an\\_update\\_on\\_our\\_satellite](http://www.uspto.gov/blog/director/entry/an_update_on_our_satellite).

*Our Vision for 2014-2018*, (March 14, 2014).  
[http://www.uspto.gov/blog/director/entry/our\\_vision\\_for\\_2014\\_2018](http://www.uspto.gov/blog/director/entry/our_vision_for_2014_2018).

*Calling on the Crowd to Help Increase Patent Quality*, (March 13, 2014).  
[http://www.uspto.gov/blog/director/entry/calling\\_on\\_the\\_crowd\\_to1](http://www.uspto.gov/blog/director/entry/calling_on_the_crowd_to1).

*Building a Better Patent System*, (February 20, 2014).  
[http://www.uspto.gov/blog/director/entry/building\\_a\\_better\\_patent\\_system](http://www.uspto.gov/blog/director/entry/building_a_better_patent_system).

*Moving Forward in 2014*, (January 23, 2014).  
[http://www.uspto.gov/blog/director/entry/moving\\_forward\\_in\\_2014](http://www.uspto.gov/blog/director/entry/moving_forward_in_2014).

*Debating the future of innovation at the Supreme Court*, (November 9, 2009).  
<http://googlepublicpolicy.blogspot.com/2009/11/debating-future-of-innovation-at.html>.

*Patent reform needed more than ever*, (March 3, 2009).  
<http://googlepublicpolicy.blogspot.com/2009/03/patent-reform-needed-more-than-ever.html>.

Johanna Shelton and Michelle Lee, *Reforming patents, promoting innovation*,

(September 4, 2007). <http://googlepublicpolicy.blogspot.com/2007/09/reforming-patents-promoting-innovation.html>

Henry Bunsow and Michelle Lee, *Patent Roles for Judges and Juries*, *The Recorder* (Sept. 20, 1995). Copy of article provided.

*High Technology Consortia: A Panacea for America's Technological Competitiveness Problems?* in 6:2 Berkeley High Technology L.J. (Spring 1992) (reprinted in 21:1 IBEE Engineering Management Review 77 (Spring 1993)).  
<http://scholarship.law.berkeley.edu/btlj/vol6/iss2/4/>

*Qualitative Analysis of Nonlinear, Dynamical Systems*, MIT Artificial Intelligence Laboratory Technical Report (TR1125) (MIT Masters Thesis, 1989).  
<ftp://publications.ai.mit.edu/ai-publications/pdf/AITR-1125.pdf>

- 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.

To answer this question, I have searched my files and papers and conducted an electronic internet search for information and materials responsive to this question. Although I have sought to compile a list as complete as possible, there may be other reports, memoranda and policy statements that I have been unable to remember or identify.

United States Patent and Trademark Office Patent Public Advisory Committee Annual Report 2011, November 4, 2011. [http://www.uspto.gov/about/advisory/ppac/2011-annual\\_rpt.pdf](http://www.uspto.gov/about/advisory/ppac/2011-annual_rpt.pdf)

United States Patent and Trademark Office Patent Public Advisory Committee Annual Report 2012, November 2, 2012. <http://www.uspto.gov/about/advisory/ppac/2012-annual-rpt.pdf>

- 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.

Testimony before the Federal Trade Commission on May 5, 2009.

Report resulting from testimony at:

<http://www.ftc.gov/os/2011/03/110307patentreport.pdf>

Testimony before the State of California's Assembly Select Committee on High Technology on October 30, 2013. Copy of testimony provided.

Briefing of the staff of the U.S. Senate Judiciary Committee on January 24, 2014. Copy of testimony provided.

Briefing of the staff of the U.S. Senate Judiciary Committee on January 31, 2014. Copy of notes provided.

Written Testimony before the Subcommittee on Courts, Intellectual Property and the Internet, Committee on the Judiciary, U.S. House of Representatives on July 30, 2014.

[http://www.uspto.gov/news/speeches/2014/lee\\_housetestimony073014.pdf](http://www.uspto.gov/news/speeches/2014/lee_housetestimony073014.pdf)

Oral Testimony of Michelle K. Lee, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent & Trademark Office before the Subcommittee on Courts, Intellectual Property and the Internet, Committee on the Judiciary, U.S. House of Representatives on July 30, 2014.

<http://www.ustream.tv/recorded/50727158>

- 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 or 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.

To answer this question, I performed a reasonable search of my files and papers and the internet for information and materials responsive to this question. Although I have sought to compile a list as complete as possible, there may be other speeches or talks, or press reports about such speeches or talks, that I have been unable to remember or identify. I have frequently spoken at conferences and events as part of my current and past jobs.

November 1997, guest lecturer to a group of students at M.I.T. on copyright protection



of the “look and feel” of computer graphical user interfaces. M.I.T. Department of Electrical Engineering and Computer Science, 77 Massachusetts Ave., MA 02139.

June 2002, speaker at an Asian American Manufacturers’ Association Conference in the San Francisco Bay Area. Copy of notes provided.

April 25, 2002, speaker at a start-up workshop on intellectual property issues in Santa Clara, CA. Copy of notes provided.

August 12, 2003, speaker to Hua Yuan Science & Technology Association in Mountain View, CA. Copy of notes provided.

May 17-18, 2004, panelist at WIPO Comes to the Silicon Valley conference in Stanford, CA. Spoke on the topic of the duty of care and the role of opinions in responding to demand letters of patent infringement. Attendees included members of the Stanford Law School and WIPO communities. Stanford Law School, 559 Nathan Abbott Way, Stanford, CA 94305.

December 1, 2005, panelist at the Advanced Patent Law Institute in San Jose, CA, co-hosted by the Stanford and Berkeley Centers for Law & Technology and the University of Texas Law School. Copy of notes provided.

November 30, 2006, panelist at Advanced Patent Law Institute, co-hosted by the Stanford and Berkeley Centers for Law & Technology and the University of Texas Law School. To the best of my knowledge, this event was held in Palo Alto, CA. Spoke on a panel titled, “Strategic Patent Prosecution.” Attendees included private practitioners, in-house counsel and academics. The University of Texas School of Law, Attn. PJ06, P.O. Box 7759, Austin, TX 78713.

February 20, 2007, panelist at Software IP Strategy Summit hosted by the American Conference Institute in Palo Alto, CA. Spoke on the topics of managing and monetizing a patent portfolio. Attendees included private practitioners, in-house counsel and academics. American Conference Institute, 41 West 25<sup>th</sup> St., New York, NY 10010

May 16, 2007, co-chair and moderator of conference titled “Innovations in IP Litigation: Gauging the Impact of Recent Federal Decisions -- What it Means For You and Your Client” in San Jose, CA. Attendees included private practitioners, in-house counsel and academics. ALM Events, 333 Seventh Ave., 9<sup>th</sup> floor, New York, NY 10001.

July 31, 2007, panelist at AlwaysOn Stanford Summit on panel titled “The Patent Crisis: Crossroads for the Business of Technology” in Stanford, CA. Attendees included

members of the Stanford community and the local business and venture capital communities. I do not have a copy of my remarks nor the address for the AlwaysOn Stanford Summit. Copy of press report about the panel provided.

June 25-28, 2008, panelist at the 10th Annual Federal Circuit Bench and Bar Conference. To the best of my knowledge, this event was held in Monterey, California. Title of panel, "Technology, Innovation and Trade: Are our laws encouraging or discouraging innovation?" Attendees included members of the Federal Circuit Bar Association and other private practitioners, in-house counsel, government lawyers and academics. Federal Circuit Bar Association, 1620 I Street, N.W., Washington, D.C. 20006.

December 11, 2008, panelist at Advanced Patent Law Institute co-hosted by the Stanford and Berkeley Centers for Law & Technology and the University of Texas Law School, in Palo Alto, CA. Panel titled, "When to Hold, When to Fold: Litigation Judgment and Settlement Strategies in Patent Cases." Attendees included private practitioners, in-house counsel and academics who signed up to attend the conference. The University of Texas School of Law, Attn. PJ08, P.O. Box 7759, Austin, TX 78713.

April 1-2, 2009, panelist at IP Counsel Café conference in Palo Alto, CA. Title of panel: "Where's the Next Opportunity?" Attendees included private practitioners, in-house counsel and academics who signed up to attend the conference. IP Counsel Café, 419 Lafayette St., 2<sup>nd</sup> Floor, New York, NY 10003.

March 1, 2010, panelist on the Federal Circuit Bar Association's webinar titled "The Federal Circuit's Mandatory Mediation Program." Attendees included private practitioners, in-house counsel, government lawyers and academics. Federal Circuit Bar Association, 1620 I Street, N.W., Washington, D.C. 20006.

October 10, 2010, moderator of corporate panel hosted by the Federal Circuit Bar Association and the Berkeley Center for Law & Technology in Berkeley, CA. Copy of notes provided.

October 22, 2010, moderator of panel at conference co-hosted by Stanford Law School and Georgetown University Law Center in Washington, D.C. Copy of notes and video provided.

November 20, 2010, panelist at the National Asian Pacific American Bar Association Conference on the topic of "What's Hot and What's Not in IP -- A Survey of Key Developments in Recent Years" in Los Angeles, CA. Attendees included members of the National Asian Pacific American Bar Association. NAPABA, 1612 K Street, N.W.,

Suite 1400, Washington, D.C. 20006.

April 6-7, 2011, either provided opening remarks or moderated a panel in Palo Alto, California hosted by IP Counsel Café on “NPE’s and Other IP Challenges: The New Approach.” Attendees included private practitioners, in-house counsel and academics. IP Counsel Café, 419 Lafayette St., 2<sup>nd</sup> Floor, New York, NY 10003.

June 22-25, 2011, moderator of a panel at the Federal Circuit Bench and Bar Conference on the topic of “Corporate Perspectives: Competitiveness and Innovation” in Key Biscayne, FL. Attendees included members of the Federal Circuit Bar Association and other private practitioners, government lawyers, in-house counsel, government lawyers, judges and academics. Federal Circuit Bar Association, 1620 I Street, N.W., Washington, D.C. 20006.

September 30, 2011, panelist for Asian Pacific American Bar Association of Silicon Valley event in the San Francisco Bay Area. Leaders from the tech industry provided their perspectives on patent reform. Attendees included members of the Silicon Valley Asian Pacific American Bar Association. APABA-SV, P.O. Box 1741, Fremont, CA 94538.

November 4, 2011, moderator of panel at conference co-hosted by Stanford Law School and Georgetown University Law Center on “The America Invents Act: What Congressional Action Means for the Courts” in Washington, D.C. Attendees included private practitioners, in-house counsel, judges, government lawyers and academics. Academic Conferences & Continuing Legal Education, 600 New Jersey Ave., N.W., Washington, D.C. 20001.

October 26, 2011, panelist at RPX Fall Conference 2011 on “Patent Reform Legislation Has Been Enacted -- Now What?” in Palo Alto, CA. Attendees included representatives from various companies. RPX Corporation, One Market Plaza, Steuart Tower, Suite 700, San Francisco, CA 94105.

November 18, 2011, panelist on “The Future of Cleantech: Perspectives from California and Beyond” at conference hosted by the National Asian Pacific American Bar Association Conference in Atlanta, GA. Attendees included members of the National Asian Pacific American Bar Association and other private practitioners, government lawyers, judges, in-house counsel and academics. NAPABA, 1612 K Street, N.W., Suite 1400, Washington, D.C. 20006.

March 30, 2012, speaker for the American Bar Association’s Annual IP Conference in Arlington, VA. Copy of notes provided.

April 18, 2012, opening remarks to IP Counsel Café conference in Palo Alto, CA. Copy of notes provided.

May 21, 2012, panelist at the Patent Institutions Summit in Stanford, CA. Copy of video at <https://www.youtube.com/watch?v=ni9NZo5yWpM>.

October 10, 2012, speaker at ChIPs Women in IP Global Summit in Washington, D.C. Copy of notes provided.

October 10, 2012, moderator of panel at ChIPs Women in IP Global Summit in Washington, D.C. Copy of notes provided.

January 29, 2013, keynote luncheon speaker at the Los Angeles Intellectual Property Law Association conference in Los Angeles, CA. Copy of notes and slides provided.

February 12, 2013, opening remarks for USPTO Software Partnership Roundtable in Silicon Valley in Palo Alto, CA. Copy of notes provided.

February 25, 2013, speaker at conference hosted by McDermott Will & Emery LLP in Menlo Park, CA. Copy of notes provided.

February 27, 2013, opening remarks for USPTO Software Partnership Roundtable in New York, NY. Copy of notes provided.

March 1, 2013, keynote speaker at George Washington University Law School's Intellectual Property Panel Symposium in San Francisco, CA. Copy of notes provided.

March 12, 2013, speaker to High Technology Law Group in Menlo Park, CA. Copy notes provided.

March 14, 2013, panelist at USC Gould School of Law's 2013 Intellectual Property Institute conference in Beverly Hills, CA. Copy of notes provided.

April 24, 2013, speaker at the IP Counsel Café conference in Palo Alto, CA. Copy of notes provided.

April 26, 2013, speaker at World IP Day Silicon Valley celebration in San Jose, CA. Copy of notes provided.

May 1, 2013, speaker at event sponsored by the San Francisco Intellectual Property Law Association in San Francisco, CA. Copy of notes provided.

May 2, 2013, panelist at RPX's Spring Conference 2013 in San Francisco, CA. Copy of notes provided.

May 6, 2013, speaker at event sponsored by the Silicon Valley Intellectual Property Law Association in San Francisco Bay Area. Copy of notes provided.

May 8, 2013, speaker at event sponsored by the Patent and Training Resource Center in Sunnyvale, CA. Copy of notes provided.

May 8, 2013, speaker at event hosted by Drinker Biddle and NERA Economic Consulting in East Palo Alto, CA. Copy of notes provided.

June 21, 2013, panelist at Federal Circuit Bar Association's 15th Annual Bench & Bar Conference, Colorado Springs, CO. Copy of notes provided.

June 24, 2013, speaker at Association of Corporate Patent Counsel conference in Asheville, NC. Copy of notes provided.

July 9, 2013, panelist at SEMICON conference in San Francisco, CA. Copy of notes provided.

August 27, 2013, speaker at AIPLA 2013 Electronic & Computer Patent Law Summit in San Jose, CA. Copy of press report provided.

September 18, 2013, speaker at the Washington State Patent Law Association event in Seattle, WA. Copy of notes provided.

September 19, 2013, speaker at the Silicon Valley Leadership Group's Round Table meeting in Sunnyvale, CA. Copy of notes provided.

September 26, 2013, speaker at Knobbe Marten conference in Palo Alto, CA. Copy of notes provided.

September 27, 2013, panelist at the U.C. Davis School of Law's Conference on Patentable Subject Matter in Davis, CA. Copy of notes provided.

October 2, 2013, moderator of panel discussion at the ChIPs Women in IP Global Summit in Washington, D.C. Copy of notes provided.

October 8, 2013, panelist at the Silicon Flatirons Center's Conference in Boulder, CO.

Copy of notes provided.

October 17, 2013, speaker at the USPTO Software Partnership Roundtable in Berkeley, CA. Copy of notes provided.

October 25, 2013, speaker at the 2013 AIPLA Annual Meeting in Washington, D.C. Copy of notes provided.

November 2, 2013, speaker at the IP Law and Management Institute conference in San Diego, CA. Copy of remarks provided.

December 12, 2013, speaker at the 14th Annual Silicon Valley Advanced Patent Law Institute conference in Palo Alto, CA. Copy of notes provided.

January 30, 2014, speaker at AIPLA 2014 Mid-Winter Institute conference in Phoenix, AZ. Copy of notes provided.

February 20, 2014, speaker at White House Event on USPTO Executive Actions in Washington, D.C. Copy of notes provided.

February 24, 2014, speaker at roundtable hosted by Silicon Valley Leadership Group and White House Business Council in Santa Clara, CA. Discussed USPTO priorities, White House Executive Actions and patent legislation. Silicon Valley Leadership Group, 2001 Gateway Place, Suite 101E, San Jose, CA 95110.

February 24, 2014, speaker at roundtable discussion with Women's General Counsel Network Event in Palo Alto, CA on Silicon Valley satellite office updates, USPTO priorities and patent legislation. Attn.: Ms. Jan Kang (Women's General Counsel Network) Aoptix, 675 Campbell Technology Parkway, Campbell, CA 95008.

February 25, 2014, speaker at Startup/Venture Capital Breakfast in Menlo Park, CA, discussing Silicon Valley satellite office, Software Partnership, USPTO priorities, White House Executive Actions and patent legislation. Andreessen Horowitz, 2865 Sand Hill Road, Suite 101, Menlo Park, CA.

February 25, 2014, panelist at "Incubator/Startup Community Dialogue" in San Francisco, CA. Copy of notes provided.

February 25, 2014, participant in roundtable hosted by Silicon Valley Leadership Group and White House Business Council in San Francisco, CA. Discussed USPTO priorities, White House Executive Actions and patent legislation. Silicon Valley Leadership Group, 2001 Gateway Place, Suite 101E, San Jose, CA 95110.

February 27, 2014, participant at White House Business Council National Stakeholder Call hosted by Business Forward in Washington, D.C. Copy of notes provided.

February 28, 2014, opening remarks at Trademark Public Advisory Committee meeting in Alexandria, VA. Copy of notes provided.

March 20, 2014, opening remarks at USPTO's public meeting of a multi-stakeholder forum on improving operation of DMCA's notice and takedown system in Alexandria, VA. Copy of notes provided.

March 25, 2014, speaker at Managing IP U.S. Patent Forum 2014 conference in Washington DC. Copy of notes provided.

March 25, 2014, speaker at IPO Education Foundation's 23rd PTO Day Conference in Washington D.C. Copy of notes provided.

March 26, 2014, opening remarks at ceremony honoring the "Presentation of the 700,000th Design Patent," at Langdon Education Campus, Washington DC. Copy of notes provided.

March 28, 2014, moderator of panel discussion at the Federal Circuit Bar Association and the New York Intellectual Property Law Association event in New York. Copy of notes and slides provided.

April 1, 2014, panelist at Bloomberg Government Conference in Washington D.C. Copy of notes provided.

April 1, 2014, opening remarks at United States Patent & Trademark Office's "First Inventor to File Anniversary Event" in Alexandria, VA. Copy of notes provided.

April 3, 2014, speaker at White House Business Council National Stakeholder Call (event hosted by Small Business Majority) in Washington, D.C. Copy of notes provided.

April 4, 2014, speaker at the ABA-IPL 29th IP Law Conference, VA. Copy of notes provided.

April 10, 2014, opening remarks at Crowdsourcing Roundtable event at USPTO in Alexandria, VA. Copy of notes provided.

April 24, 2014, speaker at 22nd Annual Intellectual Property Law & Policy Conference in New York, NY. Copy of notes provided.

April 25, 2014, speaker at World IP Day event in New York, NY. Copy of notes provided.

April 28, 2014, speaker at USPTO World IP Day event in Alexandria, VA. Copy of notes provided.

April 28, 2014, speaker at USPTO-AIPLA World IP Day event in Washington, D.C. Copy of notes provided.

May 1, 2014, participant in Council on Foreign Relations Corporate Program Conference Call in Washington, D.C. on the topic of: "Window on Washington: Priorities in U.S. Intellectual Property and Patent Policy." Council on Foreign Relations, 1777 F Street, N.W., Washington, D.C. 2006.

May 9, 2014, opening remarks at US Patent and Trademark Office in Alexandria, VA. Copy of notes provided.

May 21, 2014, speaker at Armed Forces Day/Memorial Day event at Alexandria National Cemetery in Alexandria, VA. Copy of notes provided.

May 21, 2014, opening remarks at National Inventors Hall of Fame Induction event in Alexandria, VA. Copy of notes provided.

May 22 2014, opening remarks at Patent Public Advisory Committee in Alexandria, VA. Copy of notes provided.

May 22, 2014, opening remarks at AIPLA Women in IP Law Networking Event in Alexandria. Copy of notes provided.

May 29, 2014, speaker at Software and Information Industry Association Luncheon event in Washington, D.C. Copy of notes provided.

June 25, 2014, speaker at BIO International Convention in San Diego, CA. Copy of notes provided.

June 26, 2014, speaker at event hosted by Stanford Law School's Program in Law, Science and Technology and the Juelsgaard IP and Innovation Clinic in Stanford, CA. Copy of notes and press article provided.

June 30, 2014, opening remarks for the USPTO Rocky Mountain Satellite Office in Denver, CO.

July 22, 2014, speaker at Software Partnership Meeting at U.S. Patent and Trademark Office in Alexandria, VA. Copy of notes provided.

August 14; 2014, opening remarks via video for the U.S. Patent and Trademark Office Patent Public Advisory Committee in Alexandria, VA. Copy of notes provided.

August 14; 2014, opening remarks for the Patents for Humanity conference in Santa



Clara, CA. Copy of notes provided.

September 10, 2014, remarks to intellectual property working group of the Joint Commission on Commerce in Alexandria, VA. Copy of notes provided.

September 12, 2014, opening remarks for the Virginia Ventures Forum in Alexandria, VA. Copy of notes provided.

September 12, 2014, fireside chat at the Asian Pacific American Bar Association of Washington, DC, Awards and Installation event in Washington, DC. Copy of notes provided.

September 22, 2014, remarks on building a better international patent system at U.S. mission in Geneva, Switzerland. Copy of video at <https://m.youtube.com/watch?feature=youtu.be&v=35IPLUq38E>.

September 23, 2014, remarks to Group B+ Heads in Geneva, Switzerland. Copy of notes provided.

September 23, 2014, remarks at Innovation Dinner in Geneva, Switzerland. Copy of notes provided.

October 2, 2014, speech at ChIPs Intellectual Property Summit in Washington, DC. Copy of notes provided.

October 10, 2014, opening speech for Veteran recognition in Alexandria, VA. Copy of notes provided.

October 17, 2014, opening remarks for U.S. Patent and Trademark 2014 Trademark Expo in Alexandria, VA. Copy of notes provided.

October 23, 2014, opening remarks to the American Intellectual Property Law Association annual meeting in Washington, DC.

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.

To answer this question, I have searched my files and papers and conducted an electronic internet search for interviews and other related information and materials responsive to this question. Although I have sought to compile a list as complete as possible, there may be other interviews that I have been unable to remember or identify.

June 28, 2006, IPLaw 360. Copy provided.

Winter 2007, IP: Intellectual Property and Technology Law for the Pacific Rim. Copy provided.

March 2, 2009, CNET. Copy provided

August 22, 2011, The Recorder. Copy provided.

January 1, 2012, ABA Journal. Copy provided.

March 1, 2012, Silicon Valley Business Journal. Copy provided.

May/June 2012, Diversity & the Bar. Copy provided.

April 9, 2013, Silicon Valley Leadership Group. <http://svlg.org/press/ceo-show> (audio file)

November 18, 2013, Bloomberg. Copy provided.

November 19, 2013, group interviews with various press, resulting in articles published by Bloomberg, San Jose Mercury News, IPLaw 360 and Innovate Design. Copies of articles provided.

November 25, 2013, Federal News Radio. Copy of audio file provided.

February 21, 2014, Federal News Radio. Copy article provided.

March 3, 2014, Federal News Radio. Copy of notes provided.

June 26, 2014, Law.com. Copy provided.

June 27, 2014, Bloomberg West. <http://www.bloomberg.com/video/u-s-patent-office-s-lee-on-abusive-litigation-8g5mJjvNSI6xC3CCgPOvrg.html> (video)

June 30, 2014, 5280 The Denver Magazine. Copy provided.

June 30, 2014, KDVR Fox 31 News. Copy provided.

June 30, 2014, The Denver Post. Copy provided.

July 1, 2014, KWGN News. <https://www.youtube.com/watch?v=qdwMTz9ca5s> (video)

September 24, 2014, group press interview with Washington Trade Daily, IP Watch, AFP, Associated Press, Yomiuri Shimbun, Jiji Press. One article published by IP Watch resulted from the group interview. Copy of resulting article provided.

13. **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.

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director,  
United States Patent and Trademark Office (USPTO)

Dates: 1/2014 – Present

Appointed to this position by President Obama.

Director of the Silicon Valley United States Patent and Trademark Office, USPTO

Dates: 11/2012 – 1/2014

Selected to serve in this position by the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent & Trademark Office.

Member of the Patent Public Advisory Committee, United States Patent & Trademark Office

Dates: 4/8/2011 – 10/6/2011; Reappointed 11/22/2011 - 11/4/2012

Appointed to this position by the United States Secretary of Commerce.

I have not held or ran for any elective public office.

- 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 not held any memberships in, nor office of, any political party or election committee. I have not held a position or played a role in a political campaign.

14. **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 served as a judicial law clerk for Judge Vaughn R. Walker, U.S. District Court for the Northern District of California from September 1992 to August 1993.

I served as a judicial law clerk for Judge Paul R. Michel, U.S. Court of Appeals for the Federal Circuit from September 1993 to August 1994.

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

I have never practiced 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.

Skjerven, Morrill, MacPherson, Franklin & Friel LLP, 25 Metro Drive, Suite 700, San Jose, CA 95110

Dates: 2 weeks in 8/1992

Affiliation: Summer Associate

Keker & Van Nest LLP, 633 Battery Street, San Francisco, CA 94111

Dates: 11/1994 – 7/1996

Affiliation: Associate

Fenwick & West LLP, Silicon Valley Center, 801 California Street, Mountain View, CA 94041

Dates: 10/1996 – 12/2003

Affiliation: Partner; prior to that, Associate

Google Inc., 1600 Amphitheatre Parkway, Mountain View, CA 94043

Dates: 12/2003 – 5/2012

Affiliation: Deputy General Counsel, Head of Patents and Patent Strategy; prior to that, Associate General Counsel, Head of Patents and Patent Strategy; prior to that, Senior Patent Counsel

U.S. Patent & Trademark Office, 345 Middlefield Road, Bldg. 1, Menlo Park, CA 94025

1055

Dates: 11/2012 – 1/2014

Affiliation: Director of the Silicon Valley United States Patent & Trademark Office

U.S. Patent & Trademark Office, 600 Dulany Street, Alexandria, VA 22314

Dates: 1/2014 - Present

Affiliation: Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director

- 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 never 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.

1. During and Post-Law School: During the second semester of my third year of law school, I worked part-time assisting in prosecuting patents at the law firm of Flehr, Hobach, Test, Albritton in Palo Alto, California. After graduating from law school, between taking the Bar Exam and starting my clerkship on the U.S. District Court for the Northern District of California, I worked at the law firm of Skjerven, Morrill, MacPherson, Franklin and Friel in San Jose, California, prosecuting patents.

2. District Court Clerkship: After law school, I spent one year (1992-1993) as a judicial law clerk to U.S. District Court Judge Vaughn R. Walker on the Northern District of California. As a law clerk, I worked on motions, attended case management conferences, assisted with trials and prepared drafts for two appellate opinions for cases for which the Judge sat by designation at the Ninth Circuit Court of Appeals. My work involved reading the briefs, conducting any necessary research, preparing memoranda (including recommended rulings), attending oral arguments, and assisting with the drafting of opinions according to the Judge's instructions. The substantive areas of law ran the gamut of areas for which the federal district courts have jurisdiction, though due to the Northern District of California's jurisdiction over the Silicon Valley, this Court received a fair amount of the patent and securities litigation at the time.

3. Federal Circuit Clerkship: From 1993-1994, I served as a judicial law clerk to U.S. Court of Appeals Judge Paul R. Michel of the Federal Circuit. As a law clerk, I worked on the full range of matters that came before the Federal Circuit including international trade, government contracts, patents, trademarks, certain money claims against the U.S. government, federal personnel, veterans' benefits, and public safety officers' benefits claims. My tasks involved reviewing the briefs, conducting any necessary research, preparing memoranda (including recommended rulings), attending oral arguments, and assisting with the drafting of opinions according to the Judge's instructions.

4. Keker & Van Nest: From 1994-1996, I worked at the law firm of Keker & Van Nest in San Francisco, California. My practice focused on general civil litigation. I worked on patent and trade secret, breach of contract and securities cases. As an associate, I helped research and draft motions, attended oral arguments, defended depositions, managed discovery and argued discovery disputes. Further details of some of the litigations I worked on at Keker & Van Nest are described in Question 15 below.

5. Fenwick & West: From 1996-2003, I worked at the law firm of Fenwick & West in Palo Alto, California. I joined as an associate in 1996 and was promoted to partner in 2001 in the intellectual property group. During my seven years at Fenwick, I worked on a variety of matters including structuring, negotiating and drafting over 300 licensing and intellectual property agreements, drafting, filing and prosecuting patent applications, advising on pre-litigation patent infringement matters, preparing opinions of patent non-infringement and invalidity, advising on the intellectual property aspects of mergers and acquisitions, counseling of intellectual property and trade secret matters generally, working on litigations and helping with a few government contracts transactions. Starting around 2000, I began to bring in my own clients, and would work with my colleagues at Fenwick & West on corporate and employment matters on behalf of my clients.

6. Google: I joined Google in 2003 as Senior Patent Counsel and was promoted to Assistant General Counsel in 2006 and Deputy General Counsel in 2009.

As Head of Patents and Patent Strategy, I built and led Google's patent team of approximately 70 professionals and managed a sizeable annual budget. In this role, I was responsible for formulating and implementing Google's first comprehensive patent strategy, including patent filings, licensing, acquisitions, pre-litigation disputes, policy and amicus strategy. I oversaw the work of my team members on appeals of matters to the Board of Patent Appeals and, if needed, to the Federal Circuit (e.g., rejected patent applications and re-

examination rulings). I oversaw and/or worked on the resolution of numerous pre-litigation and litigation (with the litigation team) patent disputes. Activities included infringement and invalidity analysis, formulating and implementing defense (including re-examination) and/or settlement strategies, helping prepare and review motions, and participating in hearings, mediations, settlement negotiations and mock trials. I also oversaw and/or worked on the filing of amicus briefs on patent issues before the Federal Circuit, International Trade Commission and Supreme Court. Further details are provided in Question 15 below regarding amicus activities.

7. U.S. Patent and Trademark Office: In 2012, the Under Secretary of Commerce for Intellectual Property and the Director of the USPTO selected me to serve as the first Director of the Silicon Valley U.S. Patent and Trademark Office. In this role, I was responsible for opening and overseeing the Silicon Valley satellite office, overseeing the USPTO outreach efforts for the Western United States, and assisting with various policy matters.

8. U.S. Patent and Trademark Office: In January 2014, President Obama appointed me to serve as the Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO. I have served as the acting Director from the start of the appointment. In this role, I advise the President, through the Secretary of Commerce, and the Administration on domestic and certain intellectual property policy matters, and lead all aspects of an almost 12,000-person agency with a budget of over \$3 billion including operations, finance, legal, human resources, governmental and international affairs and communications.

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

1. During and Post-Law School: The typical clients for whom I did work at Flehr, Hobach, Test, Albritton and Skjerven, Morrill, MacPherson, Franklin and Friel were individual inventors and technology companies.

2. District Court Clerkship: My client during my clerkship on the U.S. District Court for the Northern District of California was the Honorable Vaughn R. Walker.

3. Federal Circuit Clerkship: My client during my clerkship on the U.S. Court of Appeals for the Federal Circuit was the Honorable Paul R. Michel.

4. Keker & Van Nest and Fenwick & West: My typical clients at Keker & Van Nest and Fenwick & West included entrepreneurs, inventors, venture capitalists, and technical and business managers and corporations ranging in size from start-ups to

Fortune 500 companies.

5. Google: My client at Google was the company.

6. U.S. Patent and Trademark Office -- Director of the Silicon Valley Office: My clients were the users of the services of the United States Patent and Trademark Office.

7. U.S. Patent and Trademark Office -- Deputy Under Secretary and Deputy Director: My clients are the users of the services of the United States Patent and Trademark Office.

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.

The percentage of my practice that has been in litigation has varied from 100% during the first four years of my practice with the clerkships and at Kecker & Van Nest, to about 10% at Fenwick & West, and about anywhere from 20-60% at Google. As Deputy Director of the USPTO, I spend about 10% of my time discussing litigation related matters with my legal team and reviewing amicus briefs for recommended positions for the U.S. government.

During my two clerkships, I was frequently in the courtroom, though as an observer. As a litigator at Kecker & Van Nest, I argued matters before the courts and attended hearings for cases that I worked on, but for which I did not argue. As in-house counsel at Google, I attended court proceedings for certain cases, but did not present in the court.

i. indicate the percentage of your practice in:

1. Federal courts: 94%
2. State courts of record: 3%
3. Other courts: 0%
4. Administrative agencies: 3% (ITC)

ii. Indicate the percentage of your practice in:

5. Civil proceedings: 97%
6. Criminal proceedings: 3%

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 not personally tried any case to verdict, judgment or final decision. At



Google, I worked in a supervisory role with patent counsel on my team, outside counsel and the litigation team on cases that were tried to verdict, judgment or final decision. Also, while serving as a law clerk at the district court, I assisted Judge Walker with several trials tried to verdict, judgment or final decision.

i. What percentage of these trials were:

1. Jury: 100%

2. Non-jury: 0%

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 directed and contributed to the filing of several amicus briefs before the Supreme Court of the United States on behalf of Google. Copies of briefs have been provided. In many of these cases, I worked with outside counsel, Google's in-house patent attorney on my team and/or Google's in-house litigation attorney to formulate the positions, review and edit the brief, and approve the brief for filing. In others of these cases, I reviewed amicus briefs or outlines of briefs prepared by other companies and decided whether Google should join the brief. Even in the latter instance, my role would involve providing strategic direction, comments and/or edits to the briefs filed.

15. **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.

After reasonable investigation, the below is my best attempt to provide the information requested.

1. Skyline Software Systems, Inc. v. Keyhole Corporation, Case No. 1:04-cv-11129-DPW (later consolidated with Skyline Software Systems, Inc. v. Google Inc., under Case No. 06-10980 DPW), 421 F. Supp. 2d 371; 2006 U.S. Dist. LEXIS 12546; Judge Douglas P. Woodlock of the U.S. District Court for the District of Massachusetts presided.

The original case was filed on May 28, 2004. In both matters, plaintiff Skyline asserted infringement of U.S. Patent No. 6,496,189 ('189 patent) under direct, inducement and contributory infringement theories, and sought preliminary and permanent injunctive relief and damages. At the time the original complaint was filed, defendant Keyhole had not yet been acquired by Google. The initially accused products were thus all Keyhole products. Plaintiff later added Google as a defendant and accused the Google Earth product of infringing the same '189 patent. I was a key in-house attorney on this case for Google. Before Google acquired Keyhole, I analyzed the case. After acquisition, I worked with in-house litigation team members and outside counsel at Fenwick & West on all aspects of this case including formulating strategy, providing input on and review of most substantive pleadings (including the summary judgment for claim construction, the opposition to motion for preliminary injunction and the motions for summary judgment on non-infringement and invalidity), preparing outside counsel for oral argument, assisting with the Federal Circuit ordered mediation and ultimately settling the case. I attended all significant court hearings to observe and provide input to outside counsel. In this case, Google successfully opposed a motion for preliminary injunctive relief and won the case-dispositive motion for summary judgment on non-infringement. Plaintiffs appealed the case to the Federal Circuit. The parties entered court-ordered mediation before a Federal Circuit mediator, and the case settled during the pendency of the appeal before any oral argument or decision. The district court civil case was terminated on November 27, 2006.

Party represented: Google Inc.

Co-counsel: Darryl M. Woo, Fenwick & West LLP, 555 California Street 12th Floor, San Francisco, CA 94104. (415) 875-2300.

Opposing counsel: H. Joseph Hameline, Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, PC, One Financial Center, Boston, MA 02111. (617) 542-6000.

Cites: Claim Construction Memorandum and Order - *Skyline Software Systems, Inc. v. Keyhole, Inc.*, 421 F. Supp.2d 371 (D. Mass. 2006); Summary Judgment Memorandum and Order - *Skyline Software Systems, Inc. v. Keyhole, Inc. and Google Inc.*, 2007 U.S. Dist. Lexis, 16053, 83 U.S.P.Q.2d 1048 (D. Mass. 2007).

2. Overture Services, Inc. v. Google Inc., Case No. 3:02-cv-01991-JSW, Judge Jeffrey S. White of the U.S. District Court for the Northern District of California presided.

In this case, Overture Services alleged Google infringed its U.S. Patent No. 6,269,361 titled "System and Method for Influencing a Position on a Search Result List Generated by a Computer Network Search Engine." The complaint was filed on April 23, 2002. I joined Google on December 1, 2003 and immediately began work on the claim construction portion of the case. My role involved working with our outside counsel and our in-house litigator on strategy, review of briefs and motions papers and preparation of outside counsel for oral argument. I assisted with the formulation of Google's claim construction positions and the preparation of Google's motion for summary judgment on claim construction. I attended the summary judgment hearing. The case ultimately settled in August 2004. I played a key role in the negotiation and drafting of the settlement agreement which involved a license, dismissal of the patent lawsuit and resolution of a separate contractual dispute.

Party represented: Google Inc.

Outside counsel to Google: Daralyn Durie, (formerly with Kecker & Van Nest, then with Durie Tangri LLP) Durie Tangri LLP, 217 Leidesdorff Street, San Francisco, CA 94111. 415-376-6401.

Outside counsel to Overture: Robert D. Fram and Robert T. Haslam, Covington & Burling LLP, 333 Twin Dolphin Drive Suite 700, Redwood Shores, CA 94065. (650) 632-4702.

In-house counsel to Overture: Jeanine Hayes and Michael Callahan, Yahoo!, 701 First Ave. Sunnyvale, CA 94089-1019. (408) 349-2160. (After commencement of the lawsuit, Yahoo! acquired Overture and oversaw the litigation. Neither Ms. Hayes nor Mr. Callahan are at Yahoo! Ms. Hayes may be reached at [Jeanine.hayes@nike.com](mailto:Jeanine.hayes@nike.com).)

3. Netjumper Software LLC v. Google Inc., Case No. 2:04-cv-70366-JAC-RSW, Assigned to Judge Julian Abele Cook of the U.S. District Court for the Eastern District of Michigan (Detroit), referred to Magistrate Judge R. Stephen Whalen.

On February 2, 2004, NetJumper filed a complaint against Google for infringement of two patents, U.S. Patent Nos. 5,890,172 and 6,226,655B1, related to interface features used when browsing the Internet with a Web browser. Google counterclaimed seeking a declaration of non-infringement, invalidity, and inequitable conduct under both patents. In August 2005, Google filed a motion for summary judgment of non-infringement and invalidity of the '172 patent and later a claim construction brief setting forth its claim construction positions. The Court denied the motion for summary judgment of non-infringement based on a single claim construction ruling and, as to invalidity, the Court believed there were disputed fact issues. In March 29, 2008, Judge Cook issued a subsequent claim construction order dealing with the remaining terms in dispute. Google prevailed on each one. The parties went through two mediations. In October 2007, the United States Patent & Trademark Office (USPTO) placed the '172 patent into re-examination based on nine different prior art references, having found that each raised substantial new questions of patentability of the claims. Google filed a motion

to stay the case pending a decision on the re-examination. The Court granted the stay, and administratively closed the district court case, but invited the parties to re-open proceedings after the USPTO completed its re-examination. On July 6, 2011, the USPTO finally rejected all claims in the '172 patent. Plaintiff/Patent Owner Netjumper appealed the rejection to the Board of Patent Appeals and Interferences, and the Board reversed. Plaintiff re-opened the case in the same district court on April 5, 2012. Since then, I have not been involved with the case, but the case continues.

I worked with outside counsel at Fish & Richardson and in-house litigation counsel on all aspects of this case including formulating strategy, providing input on and review of most substantive pleadings (including the motion for summary judgment on non-infringement and invalidity, the claim construction brief and the motion to stay), preparing for oral argument, assisting with the preparation of the re-examination, participating and leading much of the negotiations in the first of the two mediations and monitoring the appeal of the rejection of the '172 patent in re-examination to the Board of Patent Appeals and Interferences. I attended most of the key court hearings to observe, to provide input to outside counsel and to keep Google's senior management apprised of key developments in this case.

Party represented: Google Inc.

Co-counsel: Frank E. Scherkenbach, Fish & Richardson P.C., 225 Franklin Street, Boston, MA 02110-2804. (617) 521-7883, and Jason W. Wolff, Fish & Richardson P.C., 12390 El Camino Real, San Diego, CA 92130-2081. (858) 678-4719.

Opposing counsel: Andrew Kochanowski, Sommers, Schwartz, Silver & Schwartz P.C., 2000 Town Center, Suite 900, Southfield, MI 48075-1100. (248) 355-0300.

Cites: 2006 U.S. Dist. LEXIS 21808, decided on March 29, 2006 (Court's denial of Google's motion for summary judgment); 2008 U.S. Dist. LEXIS 25842, decided on March 29, 2008 (Court's claim construction order); 2008 U.S. Dist. LEXIS 54975, decided on July 15, 2008 (Court's grant of Google's motion to stay proceedings pending reexamination of the '172 patent).

4. Target Therapeutics, et al. v. Scimed Life Systems and Cordis Endovascular Systems, Case No. 4:96-cv-02837-DLJ, Judge D. Lowell Jensen of the U.S. District Court for the Northern District of California presided, previously before Judges Ronald M. Whyte and Robert P. Aguilar.

This case involved an allegation of patent infringement by Target Therapeutics, Inc. against Scimed Life Systems and Cordis Endovascular Systems. The case was filed on November 9, 1994. I worked on the case as an associate on the team representing defendant Cordis Endovascular Systems from the receipt of the complaint until my departure from Kecker

& Van Nest in July 1996. During this period, I assisted with the preparation and filing of the answer, a request for reassignment for the disposition and trial of the case from a magistrate judge to a district court judge, a motion for a stay pending reexamination of the patent and a status report to the Court. The Court granted Cordis Endovascular's motion for stay pending reexamination for a period of time. After the stay lifted, I assisted with a motion to file a supplemental answer and counter-claims, an opposition to a motion for preliminary injunction, a motion to dismiss or sever claims for misjoinder, a case management statement and a motion for summary judgment of non-infringement. In addition, I assisted with discovery matters. On May 2, 1996, the Court denied Cordis Endovascular's summary adjudication of non-infringement and invalidity, denied the motion for leave to file supplemental answer and counterclaims and granted plaintiff's motion for preliminary injunction. On May 10, 1996, Cordis Endovascular appealed the case to the Federal Circuit and filed a motion to stay pending appeal. On May 23, 1996, the Court denied the motion to stay. The parties ultimately settled the litigation, and the case was dismissed with prejudice on February 6, 1998.

Parties represented: Cordis Endovascular Systems

Co-counsel:

Cordis Endovascular Systems: Brian L. Ferrall and John W. Kecker, Kecker & Van Nest LLP, 710 Sansome Street, San Francisco, CA 94111-1704. (415) 391-5400.

Scimed Life Systems: David Eiseman, Quinn Emanuel Urquhart & Sullivan, 50 California Street 22nd Floor, San Francisco, CA 94111. (415) 875-6600.

Opposing counsel:

Target Therapeutics: Harold J. McElhinny, Morrison & Foerster LLP, 425 Market St., San Francisco, CA 94105-2482. (415) 268-7000.

Cites: 1995 U.S. Dist LEXIS 22517; 1996 U.S. Dist LEXIS 22994.

5. Action Technologies, Inc. v. Novell Systems, Inc., Case No. 3:95-cv-04093-VRW, Judge Vaughn R. Walker of the U.S. District Court for the Northern District of California presided.

This case involved an allegation of patent infringement by Action Technologies, Inc. against Novell Systems, Inc. The case was filed on November 16, 1995. I worked on the case as the lead associate on the team representing plaintiff and counter-defendant Action Technologies from the preparation of the complaint until my departure from Kecker & Van Nest in July 1996. During this period, I assisted with the pre-litigation infringement and validity analysis, the preparation and filing of the complaint, the case management statement, the opposition to a motion to transfer, the answer to counterclaims and a motion for summary judgment on claim construction and a counter-motion for summary judgment on infringement. I attended the case management conference and a motion to compel hearing. On December 3,

1996, the Court granted Action Technologies' counter-motion for summary judgment on infringement. On February 21, 1997, defendant Novell filed a motion for summary judgment of invalidity, which the Court granted. The case was appealed to the U.S. Court of Appeals for the Federal Circuit, and the district court's ruling was affirmed.

Parties represented: Action Technologies, Inc.

Co-counsel: Henry C. Bunsow, Dewey & Leboeuf LLP, One Embarcadero Center, Suite 400, San Francisco, CA 94111. (415) 951-1110.

Opposing counsel: Laurie S. Hane, Morrison & Foerster LLP, 425 Market St., San Francisco, CA 94105-2482. (415) 268-7000.

Cites: 1996 U.S. Dist. LEXIS 22589; 1997 U.S. Dist. LEXIS 8374.

6. Compression Labs, Inc. v. Acer America Corporation et al., Case No. 2:04-cv-00294-DF, Judge David Folsom of the U.S. District Court for the Eastern District of Texas presided. Case subsequently transferred to Judge Jeremy Fogel of the U.S. District Court for the Northern District of California, Case No. 5:05-cv-00925-JF.

On August 5, 2004, Compression Labs filed a complaint in the Eastern District of Texas against eleven defendants (including Google) alleging infringement of its U.S. Patent No. 4,698,672 titled "Coding System for Reducing Redundancy." (Case No. 2:04-cv-00294-DF). On September 17, 2004, Google filed a declaratory judgment action in the Northern District of California alleging non-infringement, invalidity and unenforceability of the patent due to inequitable conduct (Case No. 5:2004-cv-03934). Later Google opposed and moved to dismiss or, in the alternative, to transfer the case to the Eastern District of Texas. On February 28, 2005, the two cases were ultimately consolidated in the Northern District of California pursuant to an order from the judicial panel on multi-district litigation transferring the Eastern District of Texas litigation (Case No. 2:04-cv-00294-DF) to the Northern District of California (to then newly assigned Case No. 5:05-cv-00925-JF). Shortly thereafter, the parties settled the dispute. With outside and in-house litigation counsel, I helped formulate the strategy to get the case transferred to the Northern District of California and provided input on the drafting of the motion for declaratory relief and motion to transfer. When the parties decided to settle, I drafted and negotiated the settlement agreement for and on behalf of Google. The case was dismissed on June 5, 2007.

Party represented: Google Inc.

Co-counsel:

For Google, Daralyn J. Durie, Durie Tangri, LLP, 217 Leidesdorff Street, San Francisco, CA 94111. (415) 391-5400.

For Acer America, Paul E Krieger, Morgan Lewis & Bockius, 1000 Louisiana Street, Suite 4000, Houston, TX 77002. (713) 890-5000.

For Audio Vox, BancTec, BenQ America, Color Dreams and Yahoo!, Sun Microsystems, Brian K Buss, Williams Morgan & Amerson P.C., 10333 Richmond, Suite 1100, Houston, TX 77042, (713) 934-4087, and David B Weaver, Vinson & Elkins, 2801 Via Fortuna, Suite 100, Austin, TX 78746. (512) 542-8651.

For ScanSoft, Marvin Craig Tyler, Wilson Sonsini Goodrich & Rosati P.C., 900 South Capital of Texas Highway, Las Cimas IV, Fifth Floor, Austin, TX 78746-5546. (512) 338-5410.

For Audiovox Electronics, Eric Miller Albritton, Albritton Law Firm, PO Box 2649, 111 West Tyler, 75601, Longview, TX 75606. (903) 757-8449.

For Tivo, Adam S Hoffman, Russ August & Kabat, 12424 Wilshire Boulevard, Suite 1200, Los Angeles, CA 90025. (310) 826-7474.

Opposing counsel: Stephen G Rudisill, Nixon Peabody LLP, 300 S Riverside Plaza, 16th Floor, Chicago, IL 60606. (312) 425-3900.

7. Function Media, LLC v. Google Inc., Case No. 2:07-cv-00279-CE, Magistrate Judge Charles Everingham of the U.S. District Court for the Eastern District of Texas (Marshall) presided, later assigned to Judge Roy S. Payne.

On July 3, 2007, Function Media sued Google for patent infringement alleging that Google's AdSense violated several of its patents related to matching advertisements to publishers and automatically adjusting the ads for different publishers' ads formats. This was a large and complicated case involving four patents and over 300 allegedly infringed claims. The parties filed moving or opposing motions for summary judgment for non-infringement, invalidity and inequitable conduct. Through numerous pre-trial motions, the 300+ claims were whittled down to 9 for trial. In January 2010, a jury in the Eastern District of Texas found Google infringed no valid claim of the 9 remaining claims. Function Media then requested a new trial and judgment as a matter of law on several grounds. On September 9, 2011, the Court ruled that Google did not infringe any asserted claim and dismissed the case with prejudice. Thereafter I left Google, but the case went on appeal to the U.S. Court of Appeals for the Federal Circuit, which affirmed the district court's judgment of invalidity and non-infringement on February 13, 2013.

Approximately a year after the case was filed, Google submitted inter-partes reexaminations on all four of the originally-asserted patents. The United States Patent and Trademark Office finally rejected all asserted claims, and as of July 2011, all four patents stood rejected on appeal before the Board of Patent Appeals and Interferences. Function Media, the patent owner, appealed the Board of Patent Appeals and Interferences' decision rejecting the

patent claims during inter-partes reexamination. Thereafter, I left Google, but the Court of Appeals for the Federal Circuit ultimately affirmed-in-part, reversed-in-part and remanded.

My role on this case consisted of an assessment of the allegations when it was filed, monitoring its progress, reviewing certain key pleadings and supervising patent counsel working on the case who assisted primarily with the invalidity part of the case through trial, appeal and the re-examination.

Party represented: Google Inc.

Co-counsel: Jason W. Wolff, Fish & Richardson P.C., 12390 El Camino Real, San Diego, CA 92130. (858) 678-4719, and Charles K. Verhoeven, Quinn Emanuel Urquhart & Sullivan LLP, 50 California Street, 22nd Floor, San Francisco, CA 94111. (415) 875-6600.

Opposing counsel: Max Lalor Tribble, Jr., Susman Godfrey LLP, 1000 Louisiana Street, Ste. 5100, Houston, TX 77002-5096. (713) 651-9366.

Cites: 2009 U.S. Dist. LEXIS 94340; 2010 U.S. Dist. LEXIS 3273; 2010 U.S. Dist. LEXIS 3275; 2010 U.S. Dist. LEXIS 3276; 2011 U.S. Dist. LEXIS 101998; 708 F.3d 1310 (Fed. Cir., Mar. 7, 2013).

8. Intertainer, Inc. v. Apple Computer, Inc. et al., Case No. 2:06-cv-00549-CE, Magistrate Judge Charles Everingham of the U.S. District Court for the Eastern District of Texas (Marshall) presiding, later assigned to Judge Roy S. Payne.

On December 29, 2006, Intertainer filed a patent infringement lawsuit against multiple defendants including Google alleging infringement of U.S. Patent No. 6,925,469. The '469 patent generally describes an online media hosting service for connecting providers with users. Google answered and counterclaimed alleging non-infringement, invalidity and/or unenforceability. Google also filed an inter-partes re-examination on the patent. The district court stayed the proceedings pending completion of the re-examination.

On March 20, 2009, the U.S. Patent and Trademark Office's (USPTO) Central Re-examination Unit issued a final office action rejecting all claims (including amended claims) on multiple grounds. On May 2, 2011, patent owner Intertainer filed an appeal brief with the USPTO's Board of Patent Appeals and Interferences, and Google filed a responsive brief on June 1, 2011. The appeal was pending, and thereafter I left Google.

My role on this case consisted of helping to formulate the strategy for the case especially when the complaint was first received, reviewing the petition for re-examination, monitoring the progress of the case and supervising patent counsel working on the case.

Party represented: Google Inc.

Co-counsel: David A. Perlson, Quinn Emanuel Urquhart & Sullivan LLP, 50 California Street,



22nd Floor, San Francisco, CA 94111. (415) 875-6600.

Opposing counsel: Danny Lloyd Williams, Williams Morgan & Amerson, 10333 Richmond, Suite 1100, Houston, TX 77042. (713) 934-4060.

9. I have directed and contributed to the preparation of a number of amicus briefs on intellectual property matters before the Supreme Court of the United States, as well as the U.S. Court of Appeals for the Federal Circuit and the U.S. International Trade Commission. Copies of briefs have been provided. In many of these cases, I worked with outside counsel, Google's in-house patent attorney on my team and/or Google's in-house litigation attorney to formulate the positions, review and edit the brief and approve the brief for filing. In others of these cases, I reviewed amicus briefs or outlines of briefs prepared by other companies and decided whether Google should join the brief. Even in the latter instance, my role would often involve providing strategic direction, comments and/or edits to the briefs filed.

In addition, as a board member of the Federal Circuit Bar Association, one of my responsibilities was to review the recommendations of the amicus subcommittee and decide (with the other board members) what positions the Federal Circuit Bar Association should take on amicus briefs. The issues that came before the board covered the gamut of the Federal Circuit's jurisdiction including government contracts, Merit Systems and Protection Board, International Trade Commission, tax refund appeals as well as patent and trademark related appeals.

10. Finally, as a law clerk on the U.S. District Court for the Northern District of California and on the U.S. Court of Appeals for the Federal Circuit, I worked on procedural and substantive aspects of many litigations.

16. **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 organization(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege).

a. Since January of 2014, I have had the honor of serving as the Deputy Director (and acting Director) of the USPTO. In this role, I've had the privilege of:

- leading an agency of almost 12,000 employees, working together to achieve the USPTO's goal of the promotion and protection of American innovation,
- representing the U.S. government on intellectual property matters in the international area, for example, as the head of the U.S. delegation at the IP5 Summit, an annual

gathering of the top 5 patent offices worldwide (Europe, Japan, Korea, China and the United States) to streamline the patent application process for applicants who file in multiple jurisdictions,

- working with a wide cross-section of stakeholders, members of Congress and colleagues in other federal agencies in an attempt to further improve our already world-class intellectual property system, and
- advising the Administration on domestic and certain international intellectual property policy matters.

b. I served as the first Director of the Silicon Valley United States Patent & Trademark Office. For the first time in our country's history, the USPTO had offices outside the Washington, D.C. area. This created tremendous opportunities to better serve the local innovation communities across the country and to leverage these satellite offices to help achieve the mission of the USPTO. The goal of the Office is that it serve as a hub of innovation, education and outreach. As the first Director of the Silicon Valley Office, I defined and articulated the vision for the office and led the implementation of the strategy to promote the mission of the office and the USPTO.

c. At Google, I oversaw the building of the company's patent portfolio from approximately several handfuls of patents to over approximately 10,500 domestic and foreign patents. In addition, I led its efforts to purchase one of the largest patent portfolios involving about 6,100 patents offered by the Canadian company, Nortel Networks, in a bankruptcy auction, which sold to another for \$4.5 billion. This transaction posed innumerable legal complexities given the number of assets and the intellectual property, bankruptcy, competition and foreign law issues involved.

17. **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 served as a teaching assistant at MIT for a course titled "Structure and Interpretation of Computer Programs" during the Spring semester of 1988.

<http://ocw.mit.edu/courses/electrical-engineering-and-computer-science/6-001-structure-and-interpretation-of-computer-programs-spring-2005/syllabus/>

18. **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.

a. Thrift Savings Plan with a value of \$50,499.

b. Google 401(k) Savings Plan managed by the Vanguard Group with a value of \$608,966. Neither I nor Google have contributed funds to this account since I left the company. At some point, I will withdraw the funds.

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

No.

20. **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).

I have submitted an OGE Form 278, and am willing to submit the financial disclosure report described above when and if needed.

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

The completed net worth statement is included at the end of this submission.

22. **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.

I am not currently aware of any potential conflicts of interest. In connection with the nomination process and thereafter, I have and will continue to consult with the Office of Government Ethics and the Department of Commerce's designated agency ethics official to identify potential conflicts of interest and to resolve any actual conflicts of interest.

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

I will continue to consult with the Department of Commerce ethics officials to ensure compliance with all ethics rules.

23. **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 instance and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

a. I served as a board member (and the governance committee) of the Asian Pacific Fund from approximately 2010 until just before moving to the Washington, DC, area at the end of 2013 to accept my current position. The Asian Pacific Fund provides grants and services to nonprofit organizations that serve the most vulnerable Asians throughout the San Francisco Bay Area. Asians and Pacific Islanders constitute over 26 percent of the Bay Area population, yet less than one percent of the foundation funding goes to API-serving organizations. One in three Asians in the Bay Area speaks little or no English, making accessing basic services difficult. The Asian Pacific Fund supports over 70 organizations who serve APIs in their own languages.

b. I am also a co-founder and board member of ChIPs (Chief Women IP Counsels). The mission of ChIPs is to support, mentor and retain women in the technology and intellectual property fields given their historic under-representation in these fields. Throughout the year, ChIPs organizes a number of events across the country that support this mission. I have been involved with ChIPs since its founding in 2004.

c. Throughout my career, I have provided mentoring to minority attorneys to help them navigate their professional careers.

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**AFFIDAVIT**

I, Michelle K. Lee, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

October 28, 2014

[DATE]

Michelle K. Lee

[NAME]

City of Alexandria  
Commonwealth of Virginia Macia L. W. Fletcher

[NOTARY]



UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Daniel Henry Marti  
Daniel Enrique (Henry in Spanish) Marti

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

Intellectual Property Enforcement Coordinator

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.

Kilpatrick Townsend & Stockton, LLP  
607 14<sup>th</sup> Street, NW  
Suite 900  
Washington, D.C. 20005

Residence: Oakton, Virginia

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

July 11, 1974 – Washington, D.C.

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.

Emory University School of Law  
Attendance: 1996-1999  
JD Degree Awarded May 1999

Georgetown University  
Attendance: 1994-1996  
BA Degree Awarded May 1996

Miami-Dade Community College  
Attendance: 1992-1994  
No Degree – Transferred

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.

**Kilpatrick, Townsend & Stockton LLP**

Attorney - Managing Partner of the Washington, D.C. Office (January 2001- Present)

607 14th Street, NW  
Suite 900  
Washington, D.C. 20005

**Lott & Friedland, P.A.**

Attorney (June 1999-December 2000)

355 Alhambra Circle  
Coral Gables, FL 33134

**The Coca-Cola Company, Global Trademark Division**

Legal Intern (est. September-December 1998)

1 Coca Cola Plaza, NW  
Atlanta, GA 30313

**United States Department of Commerce, Patent and Trademark Office**

Legal Intern/Law Clerk (est. June-August 1997)

600 Dulany Street  
Alexandria, VA 22314

**Federal Trade Commission, Southeastern Regional Headquarters**

Legal Intern/Law Clerk (est. August 1997-December 1997)

225 Peachtree Street, NE  
Suite 1500  
Atlanta, GA 30303

**Supreme Court of Georgia, Central Staff to the Justices**  
Legal Intern/Law Clerk (est. January-May 1998)

244 Washington Street  
Room 572  
Atlanta, Georgia 30334

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 U.S. Military. I have registered for selective service.

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.

- “Super Lawyer” for Intellectual Property in Washington, D.C.; *SuperLawyers*; 2013 and 2014
- “40 Under 40”; National Law Journal; 2014
- “IP Star”; Managing Intellectual Property; 2013 and 2014
- “Rising Star”; *Diversity & the Bar*; 2012
- AV Preeminent rating; Martindale-Hubbell; 2013-Present
- “Coach of the Year” for coaching efforts and associate mentoring; Kilpatrick, Townsend & Stockton LLP; 2007
- “Dean’s Fellowship” in Legal Writing, Research & Appellate Advocacy; Emory University School of Law; Academic Year 1998-1999
- Emory Moot Court Society; Emory University School of Law; Academic Year 1998-1999
- Government Honors Program; Georgetown University; Academic Year 1995-1996
- Lannan Fellowship in Poetry; Lannan Foundation/Georgetown University; Academic Year 1995-1996

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.

- International Trademark Association (INTA), 1999-Present
  - Internet Committee, Registration Practice and DNS Administration Subcommittee; 2008-2010
  - Legislation & Regulatory Analysis Committee, Latin America & Caribbean Subcommittee; 2004-2006



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.

- Florida (1999)
- Virginia (2001)
- District of Columbia (2004)

No lapses in memberships.

- 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 Federal Circuit (2001)
- United States Court of Appeals for the Fourth Circuit (2001)
- United States Court of Appeals for the Eleventh Circuit (2001)
- United States District Court for the Eastern District Court of Virginia (2001)
- United States District Court for the Southern District of Florida (2000)
- United States District Court for the District of Columbia (2003)

No lapses in memberships.

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 Cancer Society's National Capital Region Corporate Council, Board Member (2013-Present);
- New World Symphony (Miami-Dade), Marketing Committee Member (2005-2007);
- Emory University School of Law, Board of Alumni, *Member* (1999-2004).

- b. 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.

No.

12. **Published Writings and Public Statements:**

I have done my best to identify published writing and public statements, including a thorough review of personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. I have located the following listed below.

- 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.
- Co-Author, "Dot-What? – The New gTLDs are Coming and it's Time to Understand the Trademark Clearinghouse," Kilpatrick Townsend, March 20, 2013.
  - Author, "gTLD Reveal Day: Five Things You Need To Know To Protect Your Brand," Kilpatrick Townsend, June 14, 2012.
  - Co-Author, "New gTLD Roll-Out at a Glance," Kilpatrick Townsend, August 8, 2011.
  - Co-Author, "New .XXX Domains are Coming Soon: What Trademark Owners Need to Know to Opt-Out Now," Kilpatrick Townsend, August 4, 2011.
  - Co-Author, "Intellectual Property: Risks and Opportunities Every Captive Should Know," *The DC Captive Insurance Newsletter*, Captives Insurance Council of the District of Columbia, November 2009.
  - Co-Author, "Sweepstakes and Game Promotions Basics," *Intellectual Property Desk Reference*, Kilpatrick Stockton LLP, January 2009.
  - Co-Author, "Applicability of the Common Interest Doctrine for Preservation of Attorney-Client Privileged Materials Disclosed During Intellectual Property Due Diligence Investigations," *Intellectual Property Desk Reference*, Kilpatrick Stockton LLP, January 2009.
  - Co-Author, "Impact of Madrid Protocol on U.S. Practitioners: An In-House Perspective," The International Trademark Association, 2003.
  - Co-Author/Editor, "Practical Tips on Trademark Litigation: Litigation Before the Trademark Trial and Appeal Board: A Different Set of Rules," American Bar Association Section of Intellectual Property Law, April 2001.
  - Co-Author/Editor, "The Americas," The Lawyers' Committee for Civil Rights Under Law, June 2001.
- 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.

None.

- 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.

- Panelist, “Fluid Trademarks,” XVII Annual Conference, Asociación Interamericana de la Propiedad Intelectual, Punta Cana, Dominican Republic, December 2, 2013.
  - *Presentation Materials Attached*
- Panelist, “Surviving and Flourishing in a Law Firm: A Panel Discussion with Prominent Latino Managing Partners,” Hispanic Bar Association of D.C., Washington, D.C., October 16, 2013.
  - *No materials or notes/outline exist. The presentation sought to provide tips and best practices as to how best to succeed in a law firm environment.*
- Speaker, Iacocca Institute – Global Village for Future Leaders of Business and Industry, Washington, D.C., July 18, 2013.
  - *No materials or notes/outline exist. The presentation introduced future business leaders to the importance of intellectual property protection.*
- Keynote Luncheon Speaker, Hispanic National Bar Association/Microsoft IP Law Institute, Washington, D.C., July 10, 2013.
  - *No materials or notes/outline exist. Keynote luncheon speech focused on my “personal story” and challenged participants to live their personal and professional lives with a sense of intentionality/deliberateness.*
- Panelist, “Game On: Strategize to Win,” DuPont Minority Counsel Conference, Chicago, Illinois, June 6, 2013.
  - *Presentation Materials Attached*
- Moderator and Panelist, “Here Come The New generic Top Level Domains (gTLDs): What You Need To Know To Know About Protecting Your Brand At The Top And Second Levels,” Association of Corporate Counsel, Washington Metropolitan Area Chapter, Washington, D.C., April 24, 2012.
  - *Presentation Materials Attached*

- Panelist, “Avoiding Pitfalls in IP Due Diligence,” Intellectual Property Owners Association, Washington, D.C., February 28, 2012.
    - *Presentation Materials Attached*
  - Speaker, “Intellectual Property Protection & Tribal Tourism,” American Indian Alaska Native Tourism Association, September 23, 2013 (Oklahoma), September 12, 2011 (Arizona), September 20, 2010 (Washington), September 21, 2009 (New Mexico), and September 30, 2008 (Idaho).
    - *Presentation Materials Attached (non-material updates to presentation from year to year)*
  - Speaker, “IP Liability & Your Business: Common Trademark, Copyright & Promotional/Advertising Pitfalls,” Association of Corporate Counsel, Washington Metropolitan Area Chapter, Washington, D.C., March 23, 2010.
    - *Presentation Materials Attached*
  - Speaker, “U.S. Copyright and Software Law,” European Law Students’ Association, Stockholm, Sweden, April 28, 2008.
    - *No materials or notes/outline exist. The presentation sought to provide an overview of U.S. copyright law and enforcement measures.*
  - Speaker, “Role of National Copyrights in Global Transactions and Disputes,” Association of Corporate Counsel, Westchester, New York/Southern Connecticut Chapter (WESFACCA), Greenwich, CT, April 28, 2005.
    - *Presentation Materials Attached*
- 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.
- “Executive Profile: Danny Marti,” Washington Business Journal, May 17, 2013.
    - *Interview Attached*
  - “First For Kilpatrick MP,” Biznow, May 1, 2013.
    - *Interview Attached*

Additionally, I was quoted in the following:

- “Kilpatrick Townsend appoints DC managing partner,” World IP Review, March 19, 2013.
  - *Article Attached*

**13. 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.

Member, Miami-Dade Community Relations Board, Appointed by Miami-Dade Mayor, June-December 2000.

- 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.

From approximately March 1995 to April 1996, I served as a volunteer on to Senator Robert Dole's Presidential exploratory committee, and subsequently, Presidential campaign. My primary responsibilities included conducting legislative and other research and coordinating visits in New Hampshire.

**14. 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 did not serve as a clerk to a judge.

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

I did not practice 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.

I have been affiliated as a lawyer with the following entities:

Lott & Fischer, P.A. (formally known as Lott & Friedland, P.A.)  
355 Alhambra Circle, Coral Gables, FL 33134

- Attorney, June 1999 to December 2000

Kilpatrick Townsend & Stockton LLP (formally known as Kilpatrick Stockton, LLP)  
607 14<sup>th</sup> Street, NW, Suite 900, Washington, D.C. 20005

- Attorney, January 2001 to Present
- Partner, January 2007 to Present
- Managing Partner of Washington, D.C. Office, May 2013 to Present

- 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 in alternative dispute resolution proceedings.

b. Describe:

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

The entirety of my legal practice is one specializing in intellectual property matters, focused exclusively on the protection, management, and enforcement of intellectual property assets in the United States and abroad.

From June 1999 to December 2000, I worked at a private law firm in South Florida, Lott & Friedland (now Lott & Fischer). My practice was focused on trademark and copyright enforcement matters, including IP strategy, litigation and prosecution (registration) based matters, with a U.S., Latin-American and European focus.

In December 2000, I moved from South Florida to the Washington, D.C. area, and joined my present law firm, Kilpatrick, Townsend & Stockton LLP. My practice involves advising clients in connection with domestic and international trademark and copyright enforcement matters, including trademark portfolio management, IP licensing, and other intellectual property-based transactions.

Over the past 15+ years, I have represented clients in a wide range of cases involving trademarks, false advertising, unfair competition, copyrights, trade secrets, cybersquatting and computer fraud and abuse matters before various U.S. federal courts, as well as the Trademark Trial and Appeal Board (TTAB) and the World Intellectual Property Organization (WIPO).

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

Typical clients are those with medium to large intellectual property portfolios, strong domestic and international business presence, IP licensors and licensees, and venture capital/start-up businesses.

- 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.

As further described in my responses to Sections 15-16, only a portion of my practice is devoted to litigation, and as a result, my appearance in court could be described as "occasionally." When in court, the percentage may be generally summarized as follows:

- i. Indicate the percentage of your practice in:
    1. federal courts; (80%)
    2. state courts of record; (5%)
    3. other courts; (0%)
    4. administrative agencies. (15%)
  - ii. Indicate the percentage of your practice in:
    1. civil proceedings; (100%)
    2. criminal proceedings. (0%)
- 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 eleven cases to verdict, judgment or final decision (including by way of entry of final judgment by default). I was chief counsel for four cases, and co-counsel for the remaining seven cases.

- i. What percentage of these trials were:
    1. Jury; (20%)
    2. non-jury. (80%)
- 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 of the United States.

15. **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.

- *adidas America, Inc. et al v. Herbalife International, Inc.,*  
Case No. 3:09-cv-00661 (D. Or; Hon. Judge Mosman)  
April 2009-September 2012

Lead counsel on behalf of adidas America Inc. and adidas AG in trademark infringement litigation against Herbalife International involving the defendant's infringing use of the well-known adidas Trefoil logo. Successfully defeated a motion for preliminary injunction filed against adidas in connection with a dispute involving Major League Soccer and the LA Galaxy soccer jersey design; secured the dismissal of a "second-filed" suit in California, a third-party beneficiary counterclaim, a tortious interference counterclaim, and an appeal to the Ninth Circuit all filed by Herbalife; and obtained a favorable summary judgment ruling on behalf of adidas on all remaining claims, with an award of costs in favor of adidas.

Co-Counsel:  
Stephen M. Feldman  
Perkins Coie LLP  
1120 N.W. Couch Street  
Tenth Floor  
Portland, OR 97209-4128  
Phone: 503.727.2058

Opposing Counsel:  
Parna A. Mehrbani  
Kenneth R. Davis II  
Lane Powell PC  
601 SW Second Ave., Suite 2100  
Portland, OR 97204-3158  
Phone: 503.778.2100

Leila Nourani  
Foley & Lardner LLP  
555 S Flower Street, #3500  
Los Angeles, CA 90071  
Phone: 213.972.4500



- ***J. Christopher Burch et al. v. Tory Burch LLC, et al.***

*Case No. 7921-CS (Del. Ch. Ct.; Hon. Judge Strine, Jr.)*

*October 2011-December 2012*

Served as IP co-counsel in a case in the Delaware Chancery Court. Represented fashion design house, Tory Burch, LLC, which brought claims against a former director alleging that its former director competed unfairly against the company by launching a knockoff version of the "Tory Burch" brand created with the company's confidential information and in violation of his fiduciary duties and contractual obligations. Along with co-counsel, negotiated settlement agreement which resolved the case.

Co-Counsel:

David Mayberry  
Kilpatrick Townsend & Stockton LLP  
607 14th Street, NW  
Suite 900  
Washington, DC 20005  
Phone: 202.508.5870

Andrew J. Nausbaum  
Kendall Y. Fox  
Wachtell, Lipton, Rosen & Katz  
51 West 52nd Street  
New York, NY 10019  
Phone: 212.403.1000

Opposing Counsel:

Andrew J. Rossman  
Quinn Emanuel Urquhart & Sullivan LLP  
51 Madison Ave.  
New York, NY 10010  
Phone: 212.849.7282

- ***American Eagle Outfitters v. Payless Shoe Source, Inc.,***

*Case No. 071675 (E.D.N.Y.; Hon. Judge Korman; Hon. Judge Pohorelsky)*

*April 2007-November 2010*

Served as co-counsel on behalf of retailer American Eagle Outfitters in connection with trademark, false advertising and unfair competition claims; obtained a preliminary injunction relative to advertising and sale of AMERICAN EAGLE footwear by Payless prohibiting objectionable practices and requiring a prominent disclaimer of any affiliation with American Eagle Outfitters.

Co-Counsel:

Lisa Pearson  
Kilpatrick Townsend & Stockton LLP  
1114 Avenue of the Americas  
New York, NY 10036  
Phone: 212.775.8725

Opposing Counsel:  
Leslie G. Fagen  
Darren W. Johnson  
Paul, Weiss, Rifkind, Wharton & Garrison LLP  
1285 Avenue of the Americas  
New York, NY 10019-6064  
Phone: 212.373.3000

- ***Lulu Enterprises, Inc. v. N-F Newsite LLC (a/k/a Hulu LLC)***  
*Case No. 5:07-CV-347 (E.D.N.C.; Hon. Judge Boyle)*  
*September-December 2007*  
Co-counsel for Hulu LLC, a Fox and NBC Universal collaborative venture, related to the launch of Hulu.com. The firm successfully defeated an attempt by plaintiff to obtain a preliminary injunction that would have delayed the website launch of Hulu.com, a website portal that offers downloadable premium video content.

Co-counsel:  
William Brewster  
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Suite 2800  
Atlanta, GA 30309  
Phone: 404.815.6500

Betsy Cooke Lanzen  
Womble Carlyle Sandridge & Rice, LLP  
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Phone: 919.755.2189

Opposing Counsel:  
Leslie C. O'Toole  
Thomas H. Segars  
ELIS & WINTRS LLP  
P.O. Box 33550  
Raleigh, NC 27636  
Phone: 919.865.7000

Since litigation comprises only a portion of my practice, additional non-contentious legal activities, such as transactional and counseling matters, are set forth below in Section 16 (Legal Activities).

16. **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.)

The following legal activities are summarized to exclude all confidential information, including information protected by the attorney-client privilege:

- Negotiated a multi-million dollar naming rights deal for the 10,000-seat arena at the University of Central Florida (the second-largest university in the U.S. by enrollment) on behalf of the CFE Federal Credit Union. The "CFE Arena" hosts a variety of events, including UCF's men's basketball home games, music concerts, theatrical shows and graduations.
- Advised well-known fashion house in connection with its intellectual property strategy and corporate structure, including licensing issues concerning founder's name and likeness.
- Development of in-house trademark, copyright and domain name policies and procedures for several well-known companies.
- Counseling several clients in connection with the ICANN's new gTLD rollout.
- Representation of numerous companies in connection with domain name acquisition and enforcement strategies, including by way of the *in rem* procedures under the Anticybersquatting Consumer Protection Act (ACPA), as well as enforcement of ICANN's Uniform Domain Name Dispute Resolution Policy in proceedings before the World Intellectual Property Organization (WIPO) in Geneva, Switzerland. Domain names have been successfully transferred on behalf of clients to include actress Fran Drescher, Broyhill Furniture, Costco, Dominion Enterprises, Hickory Chair Company, HoneyBaked Ham Co., Invista (owner of the LYCRA brand), 1-800-PetMeds, Lexington Home Brands, Maitland-Smith, and Thomasville.
- Counseling international hospitality company in connection with the recordal of IP interests around the world.
- Counseling international entertainment company in connection with launch of new program, including clearance, registration and acquisition of rights.

I have not lobbied on behalf of any clients or organizations.

17. **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.

18. **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.

401K account, managed by Fidelity Investments, with a balance of \$152,260 as of September 25<sup>th</sup>, 2014.

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

No.

20. **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 SF 278.

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

See attached Net Worth Statement.

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors 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.

In connection with the nomination process I have consulted with the Office of Government Ethics and the Office of Management and Budget's designated agency ethics official to identify personal conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement I have entered into with OMB's designated agency ethics official which has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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

In connection with the nomination process I have consulted with the Office of Government Ethics and the Office of Management and Budget's designated agency ethics official to identify personal conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement I have entered into with OMB's designated agency ethics official which has been provided to this Committee. I am not aware of any other potential conflicts of interest.

23. **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. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

I have served on the Firm's Pro Bono Committee, and worked closely with, and supported, our attorneys and staff to seek out a broad range of pro bono opportunities. As a Pro Bono Committee Member, I helped to update and increase our Firm's Pro Bono Program, which since my involvement beginning in 2002, has grown to represent thousands of individuals and hundreds of community organizations that have benefited from the pro bono representation of our attorneys by an amount of more than 270,000 hours of donated time, at a value of more than \$80 million. This involvement reflects our firm's culture where the idea of giving back is a firmly entrenched value. I have devoted approximately 50+ hours of pro bono services per year throughout my career, including serving as a legal advisor to Gorilla Foundation (since approximately 2008) in connection with great ape conservation and other legal matters.

**FINANCIAL STATEMENT****NET WORTH**

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

ASSETS				LIABILITIES			
Cash on hand and in banks	\$52,400			Notes payable to banks-secured	-		
U.S. Government securities-add schedule	-			Notes payable to banks-unsecured	\$35,000		
Listed securities-add schedule	-			Notes payable to relatives	-		
Unlisted securities--add schedule	-			Notes payable to others	-		
Accounts and notes receivable:	-			Accounts and bills due	\$ 5,000		
Due from relatives and friends	-			Unpaid income tax	-		
Due from others	-			Other unpaid income and interest	-		
Doubtful	-			Real estate mortgages payable-add schedule	\$2,100/mo (rent)		
Real estate owned-add schedule	-			Chattel mortgages and other liens payable	-		
Real estate mortgages receivable	-			Other debts-itemize:	-		
Autos and other personal property	\$65,000			- Autos	\$440/mo (leases)		
Cash value-life insurance	-						
Other assets itemize:							
- 401 K	\$152,260						
- Return of Partner Capital Contribution (upon resignation from law firm)	\$55,000						
				Total liabilities	-		
				Net Worth	-		
Total Assets	\$324,660			Total liabilities and net worth	\$40,000		
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor	-			Are any assets pledged? (Add schedule)	N		
On leases or contracts				Are you defendant in any suits or legal actions?	N		
Legal Claims	-			Have you ever taken bankruptcy?	N		
Provision for Federal Income Tax	-						
Other special debt	-						

COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

NAME: Daniel Marti

1. **Employment History:** State whether you have ever been discharged from employment for any reason or have ever resigned after being informed that your employer intended to discharge you.

I have never been discharged from any employment, nor have I been informed about any intended termination.

2. **Bankruptcy and Tax Information:** Information under this heading must be provided for yourself and your spouse.

- a. Have you and your spouse filed and paid all taxes (federal, state and local) as of the date of your nomination? Indicate if you filed "married filing separately."

Yes.

- b. Have you ever made any back tax payments? If so, indicate if you have made any back tax payments, and provide full details.

On a voluntary basis, and without audit or a request of any kind, I submitted a supplemental tax payment to the Commonwealth of Virginia in the amount of approximately \$400 in May 2014, on behalf of my Au Pair, which was hired through AuPairCare, 600 California St, Fl 10, San Francisco, CA 94108, a fully accredited sponsoring agency.

According to the IRS [website](#), the term Au Pair "describes a class of Exchange Visitors who come to the United States under the auspices of a program administered by the Bureau of Educational and Cultural Affairs (ECA) of the Department of State... Au pair wages are usually not subject to social security and Medicare taxes because of the au pair's status as a J-1 nonimmigrant and as a nonresident alien... Because au pair wages are paid for domestic service in a private home, they are not subject to mandatory U.S. income tax withholding and reporting on [Forms 941](#) and W-2."

Despite this special treatment for qualified Au Pairs, employment taxes were voluntarily submitted to the Commonwealth on behalf of my State Department administered Au Pair.

- c. Has a tax lien or other collection procedure(s) ever been instituted against you or your spouse by federal, state, or local authorities? If so, provide full details.

No.

- d. Have you or your spouse ever been the subject of any audit, investigation, or inquiry for federal, state, or local taxes? If so, provide full details.

No.

- e. Have you or your spouse ever declared bankruptcy? If so, provide full details.

No.

**3. Past Investigations and Complaints:**

- a. State whether, to your knowledge, you or any organization of which you were or are an officer, director, or active participant at a relevant time has ever been under federal, state, or local investigation for a possible violation of any civil or criminal statute or administrative agency regulation. If so, provide full details.

No.

- b. Have you ever been the subject of a complaint to any court, administrative agency, bar association, disciplinary committee, or other professional group for a breach of ethics, unprofessional conduct or a violation of any rule of practice? If so, provide full details.

No.

4. **Party to Civil Legal or Administrative Proceedings:** State whether you, or any business of which you are or were an officer at a relevant time, have ever been a party or otherwise involved as a party in any civil, legal or administrative proceedings. If so, describe in detail the nature of your participation in the litigation and the final disposition of the case. Include all proceedings in which you were a party in interest. If you are or were a party as part of a partnership, include only if you were involved in a personal, managerial, or supervisory capacity.

- In 1999, and only in a "pro bono/community-based" capacity as an attorney in the State of Florida, I challenged the residency qualifications of a candidate for Miami-Dade School Board, Demetrio J. Perez. I prevailed at the trial court, the decision was affirmed on appeal, and the candidate was held ineligible and removed from ballot. The Florida Bar later ruled that the candidate's false records barred him from becoming a member of the Florida Bar for a few years. The case was originally captioned *Marti v. Perez*.



- In 2012, I filed a Complaint for Divorce in the Circuit Court of Fairfax County (Case No. 2012-09231). The case settled upon execution of a "Separation and Property Settlement Agreement," which served as the basis of the court's entry of a Final Order of Divorce.

5. **Prior Arrests:** Have you ever been arrested for, charged with, or convicted of a crime, other than a minor traffic violation, that is reflected in a record available to the public? If so, provide the relevant dates of arrest, charge and disposition, and describe the particulars of the offense.

No.

6. **Health:**

a. What is the present state of your health?

Excellent

b. List the date of your last physical examination.

April 2012 (est.)

c. Have you ever been treated for or had any problem with alcoholism or any related condition associated with consumption of alcoholic beverages or any other form of drug addiction or dependence? If so, give details.

No.

7. **Disclosure:** Describe any unfavorable information that may affect your nomination.

None to my knowledge.

AFFIDAVIT

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

10/15/14  
(DATE)

Daniel Marti  
(NAME)

Carlotto S. Botney  
(NOTARY)

District of Columbia: SS  
Subscribed and sworn to before me, in my presence,  
this 15 day of October, 2014  
Carlotto S. Botney  
Carlotto Lee Botney, Notary Public, D.C.  
My commission expires September 30, 2016.

**Statement of Michelle K. Lee**

**Nominee for Under Secretary of Commerce for Intellectual Property and Director of the  
United States Patent and Trademark Office**

**Before the  
Senate Judiciary Committee  
December 10, 2014**

Chairman Leahy, Ranking Member Grassley and distinguished members of the Committee, Thank you for the opportunity to appear before you today. I am honored and grateful to President Obama for nominating me for this important position and to Secretary Pritzker for her past and ongoing support for me in this role.

With me here today, and without whom I would not be here today, are my husband, Christopher Shen, our four-year old daughter Amanda Mavis, and my mother Agnes, who traveled from her home in Palo Alto, California.

I was born and raised in the Silicon Valley, the daughter of an immigrant family that settled in a place that turned into one of the most innovative regions in our country, if not the world. My father was an electrical engineer. We spent many of our weekends and evenings tinkering, working together to fix or build things, like a Heathkit handheld radio.

In fact, all the dads on the street where I grew up were engineers, innovators in the truest sense of the word. It was not uncommon for them to work for companies founded by a person with a clever invention, who patented that invention, and who obtained venture capital funding to start a company to bring the technology to the marketplace.

Some of the companies succeeded. Some did not. But for those that did, they created good jobs for families such as mine and, in some cases, new products and services that revolutionized the world and the way we live.

Seeing that process up close and personal growing up left a lasting impression on me. I wanted to contribute, and enable others to contribute, to innovation. It's why I studied electrical engineering and computer science and later intellectual property law with the goal of representing innovative companies.

While working at M.I.T.'s Artificial Intelligence Laboratory and Hewlett-Packard's Research Labs as a computer programmer, I witnessed innovation at its inception. It was an exciting experience I'll never forget, and one that still informs my work to this day.

Later, as an attorney, I worked on patents and patent strategy for a then-small company that grew into a Fortune 500 corporation in the span of eight short years. Along the way, we built the company's patent portfolio from a few handfuls of U.S. patents to over 10,500 patents worldwide, and in the process I used many of the services of the USPTO.

Through my experiences as an in-house corporate counsel and, before that, as a partner in a Silicon Valley law firm, I represented a wide range of innovators, from independent inventors to Fortune 500 companies. I came to understand and practice many areas of intellectual property law and almost every aspect of patent law—including writing patents, asserting patents, defending against patent infringement, and licensing, buying and selling patents.

I understand and appreciate, from a business perspective, the important value and uses of intellectual property for innovators and to our economy.

During the past three years, through my service on the USPTO's Patent Public Advisory Committee, then as the agency's first Silicon Valley satellite office director and, now, during the last year as the Deputy Under Secretary and Deputy Director – I have been leading the agency and worked with a broad range of stakeholders from every industry while gaining a first-hand understanding of the USPTO – its strengths, challenges, potential and opportunities.

I have seen and worked with the impressive talent of the dedicated USPTO team. It's clear to me how the USPTO's work benefits our nation's innovators, large and small.

I believe that the USPTO must remain focused on reducing backlog and pendency of its patent applications while maintaining the highest level of quality for both patent and trademark examination. Given the increasingly global economy, it is also imperative that American companies have access to efficient, cost-effective and strong intellectual property protection overseas.

In my current role, I have had the privilege of working on many of these initiatives, and if confirmed, would continue to work toward those important goals. Finally, as with any large organization, I appreciate the need to both effectively manage and motivate the USPTO workforce – this is especially true for an organization that has doubled in size during the last decade to keep up with our nation's innovation.

I believe that our intellectual property laws and the USPTO play a critical role in advancing American technological competitiveness which is so necessary for our nation's continued economic success.

If confirmed by the Senate, I commit to bring to bear all my energy, creativity and intellect to protect and strengthen the intellectual property system that has served our country so well.

Thank you.

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**STATEMENT OF DANNY H. MARTI****Nominee to Serve As  
Intellectual Property Enforcement Coordinator****UNITED STATES COMMITTEE ON THE JUDICIARY  
December 10, 2014**

Thank you Chairman Leahy, Ranking Member Grassley, and distinguished members of the Committee.

I am honored to have the opportunity to be considered by this Committee as the President's nominee to serve as the Administration's Intellectual Property Enforcement Coordinator (IPEC). I would like to thank the President for his confidence in my ability to serve in this important post, and I thank Victoria Espinel for her remarkable leadership and service during her time as the first IP Enforcement Coordinator.

I am joined here and supported today by my entire family, including my 6-year-old daughter, Alyssa, and 9-year-old son, Miles, who may be the only children in their elementary school who speak about intellectual property matters while swinging from the monkey bars on the playground. I also would like to specifically acknowledge and thank my wife, Lauren, for her love and her support.

This opportunity to serve my country is truly humbling. I am a first-generation American, born in Washington, D.C., of Spanish and Chilean parents who came to this country speaking little English. My father, Enrique, chose to leave the seminary in Germany, where he was studying to be a Jesuit priest, so he could teach philosophy and theology at a university in Washington, D.C. My mother, Patricia, has dedicated her life to making sure that my two sisters and I had the chance to follow our educational and professional pursuits, wherever they would lead. Their sacrifices have allowed me to be here before this distinguished Committee today, and for that I am immensely grateful.

I currently serve as the Managing Partner of the Washington, D.C. office of Kilpatrick, Townsend & Stockton LLP, which has one of the largest IP practices of any general service law firm in the country. I have devoted the entirety of my professional practice to matters concerning intellectual property enforcement. My clients have included companies in the fields of technology; banking; consumer products; entertainment, media, and sports; fashion and luxury goods; hospitality and gaming; and food, beverage and agriculture. Through these client representations, I have developed a deep and broad view of IP rights and policy.

If confirmed, I will work to achieve a thoughtful and strong intellectual property system that encourages innovation, creativity, and fair competition based on the rule of law. An effective intellectual property enforcement strategy must consist of a comprehensive and multifaceted approach to this dynamic issue; one that is well-positioned to anticipate, and respond to, the evolving nature of intellectual property issues. An intellectual property enforcement strategy should, for example, involve: sustained coordination among Federal agencies and enhanced sharing of information, both internally at the Government level but also externally with stakeholders; focused diplomatic efforts, including engagement with

trading partners, the use of trade policy tools and IP-related training and capacity building; private sector voluntary best practices to reduce infringement online and in conventional marketplaces; the adoption of technological solutions; consideration of new laws and regulations to the extent necessary to protect intellectual property; and public awareness, education and outreach.

I also will work to promote our ongoing efforts to protect existing intellectual property from unlawful infringement or use, both at home and abroad. These efforts will involve a broad range of stakeholders, including Congress, Federal agencies, the private sector, and public interest groups. All of these stakeholders, and the views and positions they represent, will be key resources for me in pursuing the goals of my office.

America's great spirit of innovation and creativity has been a primary driver of our economic growth and national competitiveness. Intellectual property-intensive industries represent a substantial portion of our gross domestic product and support millions of jobs. Intellectual property is also critical to our balance of trade: goods from IP-intensive industries account for about 60% of all U.S. merchandise exports, and about 20% of service exports. These figures are a point of national pride, and we must continue to build and invest in an IP system that will continue to promote the growth of the American economy.

Congress—and members of this Committee in particular—had the vision to create the IPEC position in order to elevate the coordination of IP enforcement issues across the United States, and indeed, internationally. In establishing this position in 2008, Congress understood that having a strong leader to coordinate the Federal Government's intellectual property enforcement policies and programs was critical to furthering our global economic competitiveness and supporting workers and industry-at-large against the misappropriation of their creative and innovative contributions. If confirmed, I look forward to building on the successes and momentum of the Office of the IP Enforcement Coordinator. Critical to this effort will be carrying forward the efforts of the U.S. Government's economic, criminal, and national security agencies engaged in intellectual property policy and enforcement.

Thank you again for the opportunity to appear before you and I look forward to answering your questions.

**Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
Hearing On Executive Nominations  
December 10, 2014**

Today the Committee is considering nominees to two important leadership positions charged with supporting our Nation's creators, artists, and inventors. I take a strong personal interest in these positions both as a leader of this Committee, and as the senior Senator for Vermont. Vermont is home to a diverse range of artists, writers, and creators. Every year, it ranks among the most innovative States that have the highest patents per capita. Vermonters know firsthand that creators and innovators are the lifeblood of this country—fueling our imagination while creating jobs and contributing billions of dollars to the economy.

The two nominations we are considering today play a central role promoting this important work. The Intellectual Property Enforcement Coordinator or "IPEC" was created by legislation I authored in 2008 that was reported by this Committee and passed the Senate with unanimous support. Our objective was to take a comprehensive approach to intellectual property enforcement within the U.S. government, to ensure that law enforcement has the tools it needs and that agencies are working together efficiently. The IPEC plays a valuable role bringing together members of the Internet ecosystem to address the complex problem of online IP theft. Earlier this year, Ranking Member Grassley and I sent a letter to President Obama urging him to nominate someone to fill this position, which has been vacant for well over a year. Today's confirmation hearing is an important step in filling this vacancy. I hope the nomination will move swiftly so the IPEC Office can return fully to its important work.

Compared to the IPEC, the position of Director of the Patent and Trademark Office, or "PTO," is not so new: our Nation's first official charged with granting patents was Thomas Jefferson, when he was Secretary of State. Since its early days, the PTO has grown to play a vital role driving the engine of our economy. Close to 600,000 patent applications and 450,000 trademark class applications are filed with the Office each year. By serving America's innovators, the PTO helps Vermonters and citizens across the country build their businesses and bring their inventions to the global marketplace.

Three years ago, Congress came together to pass the Leahy-Smith America Invents Act, the greatest transformation to our patent system in over 60 years. This Committee worked for six years to pass that landmark legislation and bring our patent system into the 21st Century. The AIA has helped simplify the process for patent approval, reduced backlogs at the USPTO, and harmonized our patent system with the rest of the world.

The AIA sought to improve patent quality by creating new and more efficient administrative proceedings at the PTO. Three years later, the PTO has now received over 2000 petitions for post-grant review. These measures are important to help businesses that fall into the cross-hairs of over-broad patents. But improving the quality of patents also improves their value for inventors and investors, too. The PTO is doing tremendous work to implement these new programs. Because of the AIA, there are now four satellite offices around the country to make the PTO more accessible to inventors and small businesses. The PTO has strengthened its pro bono program, and used its fee-setting authority created by the AIA to gain better financial



independence. The PTO has been without a Senate-confirmed director for almost two years. I want to hear more from Ms. Lee about these and other efforts as the PTO continues its work to deliver on the promise of the AIA. I am pleased that in the funding bill released last night, we were able to ensure that PTO receives a budget of \$3.46 billion, reflecting amounts it collects through user fees that were strengthened by the AIA. Full funding of PTO should remain a priority.

Congress needs to do more work to strengthen our patent system. This Committee has worked for the past 18 months to address misconduct by bad actors who are abusing the patent system. When these so-called patent trolls send threatening letters to small businesses in Vermont and tie up companies across the country in bad-faith law suits, they hamper innovation and harm our economy. We dedicated months of Committee time to this issue and we made significant bipartisan progress. I look forward to continuing that work in the new year.

I also look forward to continuing this Committee's productive relationship with the IPEC. The role of the IPEC is particularly important in addressing counterfeiting and infringement online, a complex, global problem that requires creative, multi-party solutions. Every business that operates in the Internet ecosystem has a role to play. Last month, I sent a letter to major credit card companies urging them to do more to prevent use of their payment networks for illegal theft online. Since then, my staff has had productive conversations with the companies, and Visa, for one, has taken proactive steps against a number of cyberlockers engaged in online piracy. I have asked the companies to continue that conversation with the new IPEC once the position is filled. I hope the IPEC will also renew the Office's work with advertising networks that drive so much of the online economy. Smart solutions are also needed for the "whack-a-mole" problem that plagues copyright holders online, where illegal content or sites are taken down only to spring back up again moments later in a new location.

The nominees before us are eminently qualified to fill these roles. Mr. Marti is currently the managing partner of the Washington, D.C. office of Kilpatrick, Townsend & Stockton LLP. He has spent his entire legal career specializing in intellectual property law, with a focus in trademark law and the protection of intellectual property both domestically and internationally. Mr. Marti is a graduate of Georgetown University and Emory University School of Law.

Ms. Lee currently serves as the Deputy Director of the U.S. Patent and Trademark Office. She previously was the first director of the Silicon Valley satellite office of the PTO, and has served on the PTO's Public Patent Advisory Committee. Prior to joining the Office, Ms. Lee was Deputy General Counsel and Head of Patents and Patent Strategy at Google. She earned an advanced degree in electric engineering and computer science from M.I.T. and her law degree from Stanford Law School. I welcome both witnesses and look forward to working with Senator Grassley to consider your nominations.

**Questions Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee  
Hearing on Executive Nominations  
December 10, 2014**

**Questions for the Record for Michelle Lee**

1. Earlier this year, I led a bipartisan Congressional Delegation to China to discuss stronger protections for American companies' intellectual property rights. I and other members of this Committee have long worked to support the PTO's IP attaché program, which places experts at U.S. embassies around the world to advocate for more effective IP protections in other nations. Despite these efforts, U.S. businesses and innovators face ongoing challenges in numerous important markets, including China, Brazil, India, and Russia.

**Q: Is there more the Administration can do to support the IP attachés or otherwise enhance its efforts to strengthen IP enforcement in other countries?**

2. I am concerned about an issue that impacts dairy farmers in Vermont and across the country. The European Union has recently advanced a particularly aggressive approach to protecting "Geographical Indications" in its trade agreements, which protect particular product designations to the cost of U.S. producers who make similar products.

**Q: What can the PTO do to ensure an international standard for GI protection that does not unfairly disadvantage U.S. interests?**

3. The PTO has led delegations that concluded two meaningful copyright treaties in the last two years. The Marrakesh Treaty will improve the accessibility of books for visually impaired persons around the world. The Beijing Treaty will strengthen rights in audio-visual performances.

**Q: These treaties are meaningful achievements, and I intend to support them in the Senate. Can Congress expect to receive transmittal materials from the Administration soon so that we can act to ratify and implement them?**

4. The PTO was the lead agency responsible for the Department of Commerce's 2013 Green Paper on Copyright Policy in the Digital Economy.

**Q: Can you provide an update on the work that PTO has undertaken arising out of the Green Paper, particularly its work with stakeholders to improve the "notice-and-takedown" process for removing infringing content under the Digital Millennium Copyright Act (DMCA)?**

5. In my experience, the PTO has provided a valuable resource to Congress in considering patent-related legislation, on matters including not only the operation of the Office and the granting of patents, but also matters affecting the patent system as a whole. For example, the PTO has worked closely with the Federal judiciary in its work implementing the Leahy-Smith America Invents Act, and it also works with the Department of Justice in patent disputes that arise in court. **Please elaborate on the role the PTO plays in interacting with the federal court system with respect to patents.**

**Questions Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee  
Hearing on Executive Nominations  
December 10, 2014**

**Questions for the Record for Daniel Marti**

1. The IPEC position was created to provide high-level coordination across the many agencies of the Federal Government that handle intellectual property enforcement. The IPEC works with offices in the Departments of Justice, Commerce, Homeland Security, the State Department, the Copyright Office, the U.S. Trade Representative and others within the Executive Office of the President.

**Q: If confirmed, how would you approach these inter-agency efforts? Are there ways to make the IPEC office even more effective, in terms of resources, for example?**

2. In 2013, the IPEC released its second three-year Joint Strategic Plan, detailing 26 different action items that the Office would undertake. One of the specific action items was to protect intellectual property at ICANN, which governs the use of domain names on the Internet. I have long cared about this issue because of the potential harm to consumers from misleading Internet domain names used to promote and sell counterfeits.

**Q: In your view, is ICANN adequately ensuring the protection of intellectual property? What more can be done by ICANN to promote transparency and good practices by Internet domain name registries and registrars?**

3. News articles have recently reported on a new technology that looks at search engines' lists of infringing content that has been taken down pursuant to the DMCA, and then restores those infringing files at a new address. This perpetuates the problem of "whack-a-mole" faced by many rights holders.

**Q: What strategies should be considered to address this problem?**

4. Keeping our government's computer systems safe and secure is of the utmost importance to me. That is why I am concerned that U.S. government agencies do not have systems in place to ensure they are using legal software. Not using legal software puts U.S. computer systems at higher risk for security breaches and sets a bad example internationally.

**Q: Will you continue the IPEC's work to ensure that federal agencies have effective tools and policies in place to ensure they are using legal software? Is there more that can be done to ensure that the U.S. government sets a good example internationally?**

5. Earlier this year, I led a bipartisan Congressional Delegation to China to discuss stronger protections for American companies' intellectual property rights. I and other members of this Committee have long worked to support the PTO's IP attaché program, which places experts at U.S. embassies around the world to advocate for more effective IP protections in

other nations. Despite these efforts, U.S. businesses and innovators face ongoing challenges in numerous important markets, including China, Brazil, India, and Russia.

**Q: Is there more the Administration can do to support the IP attachés or otherwise enhance its efforts to strengthen IP enforcement in other countries?**

**Senator Dick Durbin  
Questions for the Record  
Nominations Hearing for Michelle Lee  
December 10, 2014**

**Questions for Michelle Lee**

1. There is significant interest and a fair degree of anxiety among the patent stakeholder community over the USPTO's evolving analysis of patent subject matter eligibility under 35 U.S.C. § 101. On December 15, the USPTO issued interim guidance explaining the USPTO's interpretation of subject matter eligibility requirements in light of the *Alice Corp.*, *Myriad* and *Mayo* Supreme Court cases. This interim guidance is now open for a 90-day comment period, and stakeholders presumably will provide comments regarding the specific details of the guidance. I would like to ask several questions about the broader principles to which USPTO adheres when issuing such guidance.
  - a. In comments submitted on July 31 regarding the USPTO's June 25 Preliminary Examination Instructions, the American Intellectual Property Law Association stated that "[a]lthough AIPLA agrees with much of what is said in its preliminary guidance on *Alice*, the preliminary guidance suggests that the PTO may apply the case law in a way that exceeds the scope of Supreme Court precedent." **Do you believe it is appropriate for USPTO guidance to exceed the scope of Supreme Court precedent?**
  - b. In its comments, AIPLA urged the USPTO to "exercise caution in instructing Examiners on *Alice* to ensure that adequate attention is given to the factual context of the Court's reasoning and to discourage extrapolations that lead to new and unsupported rules of law." **Do you agree that USPTO guidance should exercise such caution and should discourage extrapolations that lead to new and unsupported rules of law?**
  - c. In its comments, AIPLA noted that the *Alice* Court said, regarding what an "abstract idea" might be, that "we tread carefully in construing this exclusionary principle lest it swallow all of patent law." The AIPLA comments said that this "admonition should be observed by the Office and Examiners alike." **Do you agree that the Court's admonition to "tread carefully" should be observed by USPTO and examiners?**
  - d. In a December 12 op-ed in "The Hill," former Commissioner for Patents Robert Stoll said the following about the June 25 guidance: "In trying to implement the spate of patent eligibility cases emanating from the Supreme Court, it seems the USPTO has gone beyond what was required by the court...what the user community really wants is for the office to clearly stay within the confines of the narrow decisions and use the other sections of the patent law more: those dealing with enablement, written description, and clarity and obviousness." **Do you agree that the USPTO should "clearly stay within the confines of the narrow decisions" issued by the Supreme Court in drafting guidance?**
2. In recent days, there have been numerous news stories discussing the USPTO's Sensitive Application Warning System (SAWS). According to a USPTO memorandum obtained through FOIA, the SAWS program applies to "patent applications that include sensitive

subject matter” and flags such applications on a database for additional levels of review. One tech columnist described the SAWS program as “a covert system for delaying controversial or inconvenient patents” that “if abused, could function as a way to limit or stomp out emerging companies.” Please answer the following questions regarding the SAWS program:

- a. **How long has the SAWS program been in operation?**
  - b. **On what legal authority is the SAWS program based?**
  - c. **What are the criteria used to flag applications under the SAWS program?**
  - d. **How many applications were flagged under the SAWS program**
    - i. **In 2014?**
    - ii. **In 2013?**
    - iii. **Over the life of the program?**
  - e. **Are applicants ever notified when an application is placed in the SAWS system? If not, why not?**
  - f. **Does USPTO intend to provide guidance to applicants explaining the SAWS program and how it may impact prosecution of applicants’ patents?**
3. When Congress changes the patent laws with the stated goal of reining in unproductive patent trolls, these new laws often end up being tools that competitors use to challenge the patents of legitimate, productive companies.

We are seeing this now with the Covered Business Method (CBM) Patent Review Program that was created by Section 18 of the America Invents Act. I voted for the America Invents Act after I received assurances on the legislative record from the author of Section 18 that this program would not be used to sweep in and threaten job-creating technological patents such as patents for graphical user interfaces that are widely used within the electronic trading industry. But despite these assurances, an Illinois company named Trading Technologies, which employs 300 people in my state making these graphical user interface tools, has seen its patents challenged in CBM proceedings by a giant competitor. These CBM proceedings have created enormous expense and risk for a productive employer in my state that is clearly not a patent troll. That was not what Congress intended, and it is troubling.

**Will you commit to look into this concern about overbroad application of the CBM review program, and make sure that it is not sweeping in legitimate patents in contravention of Section 18’s legislative history?**

4. **Since you took over Acting Director responsibilities, what has the PTO been doing to protect American inventors from foreign infringers?**

**Senator Dick Durbin  
Questions for the Record  
Nominations Hearing for Daniel Marti  
December 10, 2014**

**Questions for Daniel Marti**

1. I recently met with Christian Surtz, a 16-year-old from Batavia, Illinois. Christian was a national winner of a contest sponsored by the Intellectual Property Owners Education Foundation. The contest invited students to make a video explaining the importance of the patent system and how a patented invention has positively affected their lives. Christian is a cross-country runner at his school, Marmion Academy in Aurora, IL, and he made a video about an invention called "Knuckle Lights" that allows him to safely run before sunrise. Christian is a great young man with a bright future.

The purpose of this contest was to educate young Americans on the importance of our patent system and to inspire them to become innovators. I think this is a critically important message to send to Americans and to the world. We need to let inventors know that America is the best place to invent, and we need to send a strong message to foreign competitors who try to steal our ideas and inventions that we will fight to protect America's intellectual property.

**Do you agree it is important to send a strong message around the world that America will fight to protect its intellectual property? Will you carry that message if you are confirmed as the IP Enforcement Coordinator?**

2. **If you are confirmed as the IP Enforcement Coordinator, what steps would you recommend the Administration take to affirmatively protect intellectual property rights, both in the U.S. and around the world?**
3. **If you are confirmed as the IP Enforcement Coordinator, will you issue reports that identify and call out countries that violate IP enforcement standards and that fail to provide for effective IP protections?**
4. The IPEC website says that "Infringement of intellectual property can damage our economy and undermine American jobs. Infringement shrinks markets and opportunity, hurts export prospects, threatens health and safety, and funds criminal syndicates around the world."
  - a. **Do you agree with this statement?**
  - b. **In light of the harms caused by infringement, do you agree that any proposals to reform U.S. intellectual property rights should carefully consider whether such proposals would increase or decrease the incentive to infringe on such rights?**
  - c. **As a general principle, should the United States avoid reforming its system of intellectual property rights in ways that make it more difficult or costly for IP owners to protect their property against infringement?**

QUESTIONS SUBMITTED TO MICHELLE K. LEE BY SENATOR COONS

Questions from Senator Christopher A. Coons

**1. Implementation of Leahy-Smith *America Invents Act* programs**

At your nomination hearing you noted that *ALA* post-grant programs have been “exceedingly popular with stakeholders.” At the same time, you have recently solicited and received significant input regarding the implementation of *ALA* post-grant programs.

- a. Who do you consider to be “stakeholders” of the patent system?
- b. Are you aware of any stakeholders who are less enthusiastic regarding the implementation of *ALA* post-grant programs? If so, what concerns have such stakeholders expressed?
- c. What are your plans for reform of post-grant procedures, now having received comments on this topic?
- d. How do you measure the success of *ALA* post-grant procedures?
  - i. Is a post-grant procedure that leads to invalidation of patents at a high rate an indication that the post-grant procedure is a success?
  - ii. Are post-grant procedures invalidating valid patents or upholding patents that should be invalidated? How does USPTO evaluate whether and how frequently either or both are occurring?
- e. What changes do you think should be made to PTAB trial practice to improve its operations and weed out low quality patents?
- f. What is your view on the Broadest Reasonable Interpretation standard?
- g. When can the public expect the USPTO response to the submitted comments?
- h. Currently the patent owner is limited to “one motion to amend the patent” which is subject to PTAB approval. Will the PTAB revise its procedure for the patent owner to more easily amend its claims during IPR proceedings?

**2. Antitrust and intellectual property**

Both the Department of Justice and the Federal Trade Commission have been active in shaping the legal landscape that balances antitrust and intellectual property rights. Their activities have included proposals to standard-setting organizations (*see* <http://www.justice.gov/atr/public/speeches/287855.pdf>) and advocacy for “patent reform” legislation.

- a. What has been your involvement with FTC and DOJ efforts in the patent area?
- b. What is the role of PTO in working with the FTC and DOJ on issues affecting intellectual property rights?

**3. Abuse of the patent system**

At your nomination hearing you explained that abuses of the patent system (or “trolling”) is best defined as an activity rather than a type of entity or business model.



- a. Why is it more helpful to define abuses with respect to certain activities (e.g., threatening demand letters) rather than certain companies (e.g., companies that do not engage in manufacturing)?
  - i. In general, do you believe the U.S. patent system should distinguish between patent-holders who manufacture products and those who do not? If not, why not?
- b. If “trolling” is an activity, how do you distinguish it from valid enforcement activity?
- c. At your nomination hearing you stated that further legislation to restrain abusive conduct in the patent system would be helpful. In your view, what legislative provisions would be most helpful?
- d. Would legislative proposals that make it more difficult to enforce a patent right potentially disadvantage U.S. manufacturers attempting to challenge foreign infringing goods?
  - i. If so, is that an important consideration when changing the rules of the patent system or patent enforcement?

#### **4. Patent Public Advisory Committee**

The Public Patent Advisory Committees for the USPTO were created by statute in the American Inventors Protection Act of 1999 to advise the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on the management of the patent and the trademark operations. You were a member of PPAC.

- a. How effective has this organization been in advising the USPTO?
- b. Are there any changes you would like to see from either PPAC or others to provide input to USPTO operations?

#### **5. Patents for Humanity**

Earlier this year the Administration announced the extension of this effort, the USPTO’s annual award competition that recognizes patent owners and licensees working to improve global health and living standards for the less fortunate. From all reports, the program has been a success. In particular, it can draw attention to the importance that inventors and patent systems play in fostering innovation that solves the world’s problems while recognizing companies who bring life-saving technologies to underserved people of the world.

- a. Please describe your views of the program. Is it having the desired effect?
- b. How could it be upgraded to have a greater impact?

#### **6. Myriad/Mayo Guidelines**

The USPTO was criticized for the process it used when issuing new guidelines following the *Myriad* and *Mayo* decisions (see, e.g., <http://www.managingip.com/Article/3325569/USPTO-responses-to-criticism-of-post-Myriad-guidelines.html>)

- a. What are the lessons learned from the *Myriad/Mayo* guidelines process, and how will the USPTO change its process for issuing guidelines in the future?

**7. SAWS program**

- a. Could you explain how the Sensitive Application Warning System (SAWS) works at USPTO, and how you will ensure that it does not result in unnecessary delays in processing valid patent applications?

QUESTIONS SUBMITTED TO DANIEL HENRY MARTI  
BY SENATOR COONS

Questions from Senator Christopher A. Coons

**1. Antitrust and intellectual property**

Both the Department of Justice and the Federal Trade Commission have been active in shaping the legal landscape that balances antitrust and intellectual property rights. Their activities have included proposals to standard-setting organizations (*see* <http://www.justice.gov/atr/public/speeches/287855.pdf>) and advocacy for “patent reform” legislation.

- a. What is the role of IPEC in working with the FTC and DOJ on issues affecting intellectual property rights?

**2. Abuse of the patent system**

- a. Do you believe the U.S. patent system should distinguish between patent-holders who manufacture products and those who do not? If not, why not?
- b. If “trolling” is an activity, how do you distinguish it from valid enforcement activity?
- c. Would legislative proposals that make it more difficult to enforce a patent right potentially disadvantage U.S. manufacturers attempting to challenge foreign infringing goods?
  - i. If so, is that an important consideration when changing the rules of the patent system or patent enforcement?

**3. Misappropriation of U.S. trade secrets**

- a. Do you believe that existing federal criminal and state civil law remedies adequately protect U.S. trade secrets from misappropriation?
- b. Would enacting a federal private right of action for trade secret misappropriation, such as that contained in S. 2467, the Defend Trade Secrets Act, help trade secret owners protect their trade secrets from theft and misappropriation?
  - i. If so, how?

**4. International protection of trade secrets**

As you know, the US Government has advocated in trade negotiations that Trans-Pacific Partnership member countries (and also Transatlantic Trade and Investment Partnership adopt provisions to criminalize the intentional theft of trade secrets. This is tremendously important to United States companies operating abroad. It is vital that foreign markets strengthen protections for trade secrets so that the valuable know-how underpinning the technological advances of our companies is not stolen.

- a. Please explain your commitment to the principle of criminal penalties as a way to deter trade secret theft and the steps you propose to take to ensure strong provisions are adopted internationally.
- b. Please explain the actions you propose to take to work within the U.S. government and the international community to strengthen trade secret protection, both civil and criminal.

1110

**Senator Grassley  
Questions for the Record**

**Michelle Lee,  
Nominee, Under Secretary of Commerce for Intellectual Property and Director of the  
United States Patent and Trademark Office**

1. Although the title leaves out Copyright, the Patent and Trademark Director also serves as the principal advisor on copyright to the President. However, as you know, the federal government's expertise on copyright matters resides within the Copyright Office, which operates as part of Library of Congress under the Legislative Branch. The interagency process therefore becomes absolutely critical on copyright policy as, for example, the USPTO works with the World Intellectual Property Organization (WIPO), the US Trade Representative negotiates the critical IP chapter of the Trans-Pacific Partnership, and the USPTO undertakes green papers and stakeholder discussions on music licensing and DMCA notices.
  - a. How have you worked with the Copyright Office and Register Maria Pallante?
  - b. How will you ensure the Copyright Office's place at the table for all copyright discussions?
2. The Pro-IP Act of 2008 created attaches at embassies in countries with critical IP protection and enforcement issues. Infringement has become a complex global problem, and tackling it requires both expertise at our embassies and new inroads with foreign governments and businesses. How will you work to continue the success of the attaches and ensure that their resources work to the benefit of all IP rights holders?
3. In your July 2014 testimony before the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet, you stated that "the USPTO believes that additional legislative changes to build upon the AIA are needed to further enhance patent quality and to lessen litigation abuses in the system." Can you describe specifically what you have in mind?
4. What do you view as the biggest challenge to successful implementation of the AIA?
5. I'm interested in hearing your thoughts on how we could improve efficiencies at the USPTO. Could you share some specific solutions you have in mind to make the USPTO more efficient? How is the USPTO engaging with stakeholders to improve its efficiency and effectiveness, and what specifically is the agency hearing from stakeholders regarding areas of needed improvement?
6. Do you have any ideas on how we might combat and deter infringement and promote honest business practices in the use and development of intellectual property abroad? What is your plan to promote stronger patent systems and protections internationally?

7. In June 2014, the Trademark Trial and Appeal Board ruled in a 2-1 decision that the federal trademark registrations for the Washington Redskins football team should be cancelled due to the disparaging nature of the marks toward Native Americans.
  - a. Can you please explain specifically what role you had in this proceeding, if any?
  - b. In your opinion, was the correct decision reached by TTAB in this dispute?
  - c. And, in general, do you believe that disputes of this sort are properly within the purview of the USPTO?
  
8. In 2009 you wrote that “awarding patents on abstract ideas and processes, like the claim at issue in the Bilski case, poses a serious threat to innovation, job creation, and economic growth.”
  - a. Can you explain your understanding of what an abstract idea or process is?
  - b. Where do you draw the line on what should or should not be considered patentable?
  
9. In the Department of Commerce's Internet Policy Task Force Green Paper on Copyright Policy, Creativity, and Innovation in the Digital Economy, released on July 31, 2013, the Task Force stated its intention to establish a multi-stakeholder forum aimed at improving the operation of the notice-and-takedown system for removing infringing content from the Internet under the DMCA. I understand that the USPTO has been very active in those stakeholder discussions.
  - a. Can you give me an update on how those are going?
  - b. Have any areas emerged where copyright owners and ISPs agree progress can be made between private parties?
  
10. The USPTO plays an active role in advising USTR as it negotiates the critical IP chapters in proposed trade agreements such as TPP and TTIP. Many members of this and other Committees often judge the level of IP protection within such agreements when determining our support. What are your views on the importance of strong copyright protection in trade agreements?

1112

**Senator Grassley  
Questions for the Record**

**Daniel Marti,  
Nominee, Intellectual Property Enforcement Coordinator**

1. What do you see as the greatest impediment to effective enforcement of the intellectual property laws here in the U.S. and abroad?
2. If you're confirmed, how will you enhance and raise the profile of U.S. government efforts to combat intellectual property crime?
3. The IP industries bring billions of dollars into the US economy, and are critical to the long-term health of the US and global economies. With the US generating some of the most prolific and successful artists and inventors, it's only natural that the world would pay attention to what American policy makers say about intellectual property – in particular as we negotiate trade agreements.
  - a. Given its place in the Executive Office of the President at OMB, how will you, if confirmed, use the bully pulpit that comes with this post both here and abroad?
  - b. What message would you send to our trading partners?
4. If confirmed, how do you intend to work with the various existing agencies that investigate and prosecute intellectual property crimes?
5. Fostering a lawful online ecosystem across the globe is critical to protecting all types of intellectual property. What role do you see ICANN playing to ensure a lawful marketplace?
6. In your opinion, does online piracy continue to be a major problem for U.S. creators and copyright owners? If so, is there anything you see yourself as IPEC doing to address online piracy, particularly when it originates overseas?
7. Part of the previous IPEC's Strategic Plan involved educating consumers about responsible purchasing practices - both in the physical world and online. What role would education initiatives play during your tenure, and what types of initiatives will you aim to advance?

**Questions for the Record**  
**Michelle K. Lee**  
**Nominee for Under Secretary of Commerce**  
**for Intellectual Property and**  
**Director of the U.S. Patent and Trademark Office**

**Questions Posed by Senator Orrin G. Hatch**

1. Define the “technical assistance” that the USPTO may provide to Members of Congress and staff. Please make that definition objective, concrete, and specific. Please provide examples.
2. Yes or no, is it ever proper for the USPTO director or the agency’s staff to actively oppose legislative proposals before Congress?

If yes, please provide the basis for their authority to do so and the circumstances under which it is proper. Please provide examples.

3. Do you have any previous patent litigation experience? If so, please describe that experience in detail.
  4. Yes or no, does the USPTO have subject matter expertise or jurisdiction over legislative proposals to reform pleading standards, discovery, fee-shifting, and recovery of awards?\*
- If yes, please describe the basis for that jurisdiction.

*\* The above question is not about whether USPTO may provide technical assistance, but about the agency’s jurisdiction. Please respond accordingly.*

5. Yes or no, would shifting to a district court-style claim construction from the broadest reasonable interpretation at the USPTO’s Patent Trial & Appeal Board (PTAB) effectively combat patent trolls?

If yes, explain the basis for that conclusion.

6. Are PTAB judges made aware that patent applications before it are subject to the Sensitive Application Warning System (SAWS) program?

If so, do PTAB judges treat such patent applications differently than patent applications not in the SAWS program? Please provide available statistics.

7. How does an applicant appeal the placement of a patent application into the SAWS program?

**Daniel Marti**  
**Nominee, Intellectual Property Enforcement Coordinator**  
**Senate Judiciary Committee**  
**Hearing on Executive Nominations**  
**December 10, 2014**

**Questions for the Record**

**Senator Chuck Grassley**

- 1. What do you see as the greatest impediment to effective enforcement of the intellectual property laws here in the U.S. and abroad?**

My impression is that the rapidly evolving technology environment presents a substantial challenge with respect to the effective and efficient protection of intellectual property, as does the overall global nature (e.g., foreign manufacturing of counterfeit products and hosting of pirated content) and the scale or volume of such IP infringement. At the same time, rapidly evolving technology can also provide effective and efficient tools for enhancing and strengthening the protection of intellectual property. If confirmed, I look forward to working with other Federal agencies, the private sector, and our trading partners to address these and other challenges.

- 2. If you're confirmed, how will you enhance and raise the profile of U.S. government efforts to combat intellectual property crime?**

America is the world's leader for creativity and ingenuity. If confirmed, I will work with other Federal agencies and the private sector to increase public awareness of the importance of intellectual property and of the harm that intellectual property crime poses to the Nation's economy, to American jobs, and the risks it can pose to public health and safety. In addition, if confirmed, I will work with the U.S. Trade Representative and other Federal agencies in pressing other countries, as appropriate, to strengthen their intellectual property protection and enforcement.

- 3. The IP industries bring billions of dollars into the US economy, and are critical to the long-term health of the US and global economies. With the US generating some of the most prolific and successful artists and inventors, it's only natural that the world would pay attention to what American policy makers say about intellectual property – in particular as we negotiate trade agreements.**

- a. Given its place in the Executive Office of the President at OMB, how will you, if confirmed, use the bully pulpit that comes with this post both here and abroad?**
- b. What message would you send to our trading partners?**



As the world's most innovative economy, strong and effective protection of intellectual property rights is critical to continued U.S. economic growth and American jobs. If confirmed, I will work vigorously to make clear the high priority which the U.S. Government places on intellectual property. Further, I would draw upon the key role OMB plays in coordination with the Federal agencies and in coordinating Administration's policy.

Internationally, if confirmed, I will work with all stakeholders to address intellectual property challenges faced abroad, to ensure that this Nation advances a thoughtful, strong, and effective approach to the promotion and protection of intellectual property. It is important to build high standards of intellectual property protection and enforcement in our trade agreements under negotiation. If confirmed, I stand ready to work with the U.S. Trade Representative and the rest of the Administration to advocate for thoughtful and effective protection of intellectual property rights by our trading partners.

**4. If confirmed, how do you intend to work with the various existing agencies that investigate and prosecute intellectual property crimes?**

Pursuant to the PRO-IP Act of 2008, IPEC was established within the Executive Office of the President to lead the Federal Government's intellectual property policy and enforcement efforts. This role includes interagency coordination of criminal and civil intellectual property protection, however, IPEC does not direct agencies in the exercise of their investigative or prosecutorial authority.

If confirmed, I look forward to building strong relationships with all Federal agencies, including law enforcement, to coordinate IP enforcement efforts and facilitate appropriate sharing of information and prevent duplication of efforts or inefficient use of resources. These efforts would include working with the agencies on the continued implementation of the Joint Strategic Plan on Intellectual Property Enforcement, which includes five action items for ensuring efficiency and coordination, as well as working with the agencies through the IPEC-chaired interagency advisory committees that were established by the IPEC statute and by Executive Order 13565.

**5. Fostering a lawful online ecosystem across the globe is critical to protecting all types of intellectual property. What role do you see ICANN playing to ensure a lawful marketplace?**

ICANN plays an important role in administering the efficient functioning of the Internet's domain name system. As ICANN oversees the largest expansion of generic Top-Level Domains (gTLDs), it is essential that ICANN provide for meaningful intellectual property safeguards necessary to support the type of innovation and competition that has led to the success of the modern Internet. If confirmed, I intend to advocate for strong intellectual property protections, and specifically, I look forward to working with relevant stakeholders to assess, for example, the existing rights protection mechanisms (RPMs) at the gTLD registry and registrar levels, the need for enhanced RPMs, and the overarching accountability mechanisms in place for, and proposed by, ICANN.

- 6. In your opinion, does online piracy continue to be a major problem for U.S. creators and copyright owners? If so, is there anything you see yourself as IPEC doing to address online piracy, particularly when it originates overseas?**

Piracy hurts some of the Nation's most creative artists and innovative entrepreneurs and companies, and if left unchecked, runs the risk of negatively impacting the economy and American jobs. If confirmed, I am committed to working with Federal agencies, and with Congress, to ensure that the Federal Government has the right approach—one that is strong yet thoughtful, dedicated and effective, and that makes good and efficient use of our resources. These efforts would include the continued implementation of the 2013 Joint Strategic Plan on Intellectual Property Enforcement and to further our efforts to combat foreign controlled websites that facilitate the infringement of American intellectual property.

- 7. Part of the previous IPEC's Strategic Plan involved educating consumers about responsible purchasing practices - both in the physical world and online. What role would education initiatives play during your tenure, and what types of initiatives will you aim to advance?**

Predictable and effective enforcement of intellectual property rights provides a legal and trading environment critical to furthering our global economic competitiveness and job creation. As such, one significant component of an effective intellectual property enforcement strategy is to shape public discussion of intellectual property issues, particularly those norms associated with intellectual property infringement and the far-reaching impact such activities have on our Nation's innovation and creative economy, as well as to consumer health and safety (where counterfeit products may be involved, for example) and consumer privacy and security (where financial information may be provided via rogue websites, or pirated content is otherwise downloaded subject to malware). If confirmed, I will continue the office's efforts and look for opportunities to raise awareness and increase understanding of the risks from intellectual property infringement.

Questions for the Record

Senator Patrick Leahy

- 1. The IPEC position was created to provide high-level coordination across the many agencies of the Federal Government that handle intellectual property enforcement. The IPEC works with offices in the Departments of Justice, Commerce, Homeland Security, the State Department, the Copyright Office, the U.S. Trade Representative and others within the Executive Office of the President.**

**If confirmed, how would you approach these inter-agency efforts? Are there ways to make the IPEC office even more effective, in terms of resources, for example?**

If confirmed, I look forward to building strong relationships across Federal agencies responsible for intellectual property policy and enforcement. I would work to continue IPEC's efforts to: coordinate intellectual property policy and enforcement efforts; facilitate appropriate sharing of information across Federal agencies to enhance existing U.S. Government efforts; and, reduce duplication or inefficient use of resources. Further, if confirmed, I look forward to identifying ways to make the office even more effective. This would include first ensuring that existing resources are being appropriately allocated and then assessing whether future resources are necessary.

- 2. In 2013, the IPEC released its second three-year Joint Strategic Plan, detailing 26 different action items that the Office would undertake. One of the specific action items was to protect intellectual property at ICANN, which governs the use of domain names on the Internet. I have long cared about this issue because of the potential harm to consumers from misleading Internet domain names used to promote and sell counterfeits.**

**In your view, is ICANN adequately ensuring the protection of intellectual property? What more can be done by ICANN to promote transparency and good practices by Internet domain name registries and registrars?**

ICANN plays an important role in administrating the efficient functioning of the Internet's domain name system. As ICANN oversees the largest expansion of generic Top-Level Domains (gTLDs), it is essential that ICANN provide for meaningful intellectual property safeguards necessary to support the type of innovation and competition that has led to the success of the modern Internet. If confirmed, I intend to advocate for strong intellectual property protections, and specifically, I look forward to working with relevant stakeholders to assess, for example, the existing rights protection mechanisms (RPMs) at the gTLD registry and registrar levels, the need for enhanced RPMs, and the overarching accountability mechanisms in place for, and proposed by, ICANN.

3. **News articles have recently reported on a new technology that looks at search engines' lists of infringing content that has been taken down pursuant to the DMCA, and then restores those infringing files at a new address. This perpetuates the problem of "whack-a-mole" faced by many rights holders.**

**What strategies should be considered to address this problem?**

I share your resolve in the need to do more to address intellectual property infringement in the digital environment. The issue your question raises is an example of how the rapidly evolving online environment presents not only incredible opportunity for innovation and creativity, but also a set of unique challenges with respect to the effective and efficient protection of intellectual property. At the same time, while it poses this challenge, rapidly evolving technology can also provide effective and efficient tools for enhancing and strengthening the protection of intellectual property and new opportunities for the creation and distribution of legitimate content. If confirmed, I look forward to working with other Federal agencies, external stakeholders – particularly through the successful model of facilitating private sector voluntary initiatives – and the Nation's trading partners to address this and other methods intellectual property misappropriators may use to avoid enforcement of the law.

4. **Keeping our government's computer systems safe and secure is of the utmost importance to me. That is why I am concerned that U.S. government agencies do not have systems in place to ensure they are using legal software. Not using legal software puts U.S. computer systems at higher risk for security breaches and sets a bad example internationally.**

**Will you continue the IPEC's work to ensure that federal agencies have effective tools and policies in place to ensure they are using legal software? Is there more that can be done to ensure that the U.S. government sets a good example internationally?**

If confirmed, I look forward to working with my colleagues in the Office of Management and Budget and with other Federal agencies to ensure that the Federal Government has in place effective tools and policies for preventing the acquisition and use of unlicensed software. Use of unlicensed software is not only illegal, but brings with it a number of challenges to cybersecurity efforts of the Federal Government. If confirmed, I will work to ensure the continued improvements to licensing practices of Federal agencies as a model for our foreign trading partners.

5. **Earlier this year, I led a bipartisan Congressional Delegation to China to discuss stronger protections for American companies' intellectual property rights. I and other members of this Committee have long worked to support the PTO's IP attaché program, which places experts at U.S. embassies around the world to advocate for more effective IP protections in other nations. Despite these efforts, U.S. businesses and innovators face ongoing challenges in numerous important markets, including China, Brazil, India, and Russia.**

**Is there more the Administration can do to support the IP attachés or otherwise enhance its efforts to strengthen IP enforcement in other countries?**

If confirmed, I will work to ensure U.S. Government resources are aligned with intellectual property priorities and areas of greatest need both domestically and abroad. I will also work with the other Federal agencies to collectively press the governments of countries with weak intellectual property systems to strengthen intellectual property protection and enforcement. Moreover, I will work with all stakeholders to address intellectual property challenges we face abroad, to ensure that we advance a thoughtful, strong, and effective approach to the promotion and protection of intellectual property. As part of these efforts, I look forward to evaluating whether there are ways in which we can further support the IP attachés and enhance their efforts internationally on behalf of American businesses and intellectual property rights holders.

Questions for the Record**Senator Dick Durbin**

1. **I recently met with Christian Surtz, a 16-year-old from Batavia, Illinois. Christian was a national winner of a contest sponsored by the Intellectual Property Owners Education Foundation. The contest invited students to make a video explaining the importance of the patent system and how a patented invention has positively affected their lives. Christian is a cross-country runner at his school, Marmion Academy in Aurora, IL, and he made a video about an invention called "Knuckle Lights" that allows him to safely run before sunrise. Christian is a great young man with a bright future.**

**The purpose of this contest was to educate young Americans on the importance of our patent system and to inspire them to become innovators. I think this is a critically important message to send to Americans and to the world. We need to let inventors know that America is the best place to invent, and we need to send a strong message to foreign competitors who try to steal our ideas and inventions that we will fight to protect America's intellectual property.**

**Do you agree it is important to send a strong message around the world that America will fight to protect its intellectual property? Will you carry that message if you are confirmed as the IP Enforcement Coordinator?**

In establishing the position of U.S. Intellectual Property Enforcement Coordinator within the Executive Office of the President, Congress reaffirmed the critical role intellectual property plays in driving our global economic competitiveness. If confirmed, I will work to maintain the leadership role of the U.S. in setting the global standard for intellectual property protection.

Internationally, I will work with the other Federal agencies to collectively press the governments of countries with weak intellectual property systems to strengthen intellectual property protection and enforcement. Moreover, I will work with all stakeholders to address intellectual property challenges we face abroad, to ensure that we advance a thoughtful, strong, and effective approach to the promotion and protection of intellectual property.

Finally, I will work to build on the IPEC's achievements and continue to advance our government's strong commitment to intellectual property rights.

2. **If you are confirmed as the IP Enforcement Coordinator, what steps would you recommend the Administration take to affirmatively protect intellectual property rights, both in the U.S. and around the world?**

If confirmed, I will work with Federal agencies and with all stakeholders to address intellectual property challenges we face abroad, to ensure that we advance a thoughtful, strong, and effective approach to the promotion and protection of intellectual property. Further, I would look to build on the successes and the momentum of the IPEC office and continue to implement the 2013 Joint Strategic Plan on Intellectual Property Enforcement. I look forward to having the opportunity to assess the areas of greatest success achieved during implementation of the 2013 Joint Strategic Plan on Intellectual Property Enforcement, as well as to identify approaches to enhance intellectual property policy and enforcement as part of the development of the Administration's priorities in this area for 2016 and beyond.

- 3. If you are confirmed as the IP Enforcement Coordinator, will you issue reports that identify and call out countries that violate IP enforcement standards and that fail to provide for effective IP protections?**

If confirmed, I look forward to hearing from and working with all relevant Federal agencies and stakeholders to devise and implement approaches to promoting a strong domestic intellectual property environment and to ensuring the coordinated and effective deployment of Federal resources and enforcement efforts directed at protecting U.S. intellectual property against infringement. In carrying out the office's coordination mandate, I would work with departments and agencies engaged in intellectual property policy and protection—including the U.S. Trade Representative and the Departments of Commerce, State, Treasury, Homeland Security and Justice—to press governments of countries with weak intellectual property systems to improve their intellectual property protections and enforcement efforts.

- 4. The IPEC website says that “Infringement of intellectual property can damage our economy and undermine American jobs. Infringement shrinks markets and opportunity, hurts export prospects, threatens health and safety, and funds criminal syndicates around the world.”**

- a. Do you agree with this statement?
- b. In light of the harms caused by infringement, do you agree that any proposals to reform U.S. intellectual property rights should carefully consider whether such proposals would increase or decrease the incentive to infringe on such rights?
- c. As a general principle, should the United States avoid reforming its system of intellectual property rights in ways that make it more difficult or costly for IP owners to protect their property against infringement?

Our Nation rightly prides itself on the innovation and creativity that has been the engine of our economy throughout our history. America's great spirit of innovation and creativity, as reflected in the breadth of our Nation's intellectual property-intensive industries, represents one of the key drivers of our gross domestic product and helps support millions of jobs.

As we undertake efforts to build on and improve the functioning of United States' intellectual property system, it is essential that we advance a thoughtful, strong and effective approach to the promotion and protection of intellectual property that accounts for the variety of stakeholder perspectives and multi-dimensional nature of intellectual property issues. I deeply believe in the benefit that a diverse set of views offers to the policy development process and, if confirmed, I will ensure IPEC continues to engage with and hear from a broad set of stakeholders. Further, if confirmed, I would welcome the opportunity to work with Congress, and this Committee in particular, to examine and advance measures to improve our intellectual property system.



Questions for the Record

**Senator Christopher A. Coons**

**1. Antitrust and intellectual property**

Both the Department of Justice and the Federal Trade Commission have been active in shaping the legal landscape that balances antitrust and intellectual property rights. Their activities have included proposals to standard-setting organizations (*see* <http://www.justice.gov/atr/public/speeches/287855.pdf>) and advocacy for “patent reform” legislation.

**a. What is the role of IPEC in working with the FTC and DOJ on issues affecting intellectual property rights?**

IPEC was established within the Executive Office of the President to lead the Federal government’s intellectual property policy and enforcement efforts. If confirmed, I look forward to working with all Federal agencies to coordinate intellectual property policy and enforcement efforts and to facilitate collaboration across the Federal government, including, as appropriate, with relevant independent agencies such as the Federal Trade Commission. Further, I would draw upon the key role the Executive Office of the President plays in coordinating interagency policy to ensure a whole government response to cross-cutting, complex intellectual property issues, such as those presented by Standards-Essential Patents and standard setting organizations.

**2. Abuse of the patent system**

- a. Do you believe the U.S. patent system should distinguish between patent-holders who manufacture products and those who do not? If not, why not?**
- b. If “trolling” is an activity, how do you distinguish it from valid enforcement activity?**
- c. Would legislative proposals that make it more difficult to enforce a patent right potentially disadvantage U.S. manufacturers attempting to challenge foreign infringing goods?**
  - i. If so, is that an important consideration when changing the rules of the patent system or patent enforcement?**

A strong and well-functioning patent system is an objective I think we can all agree upon. If confirmed, I stand ready to work with offices within the Executive Office of the President and agencies across the Federal Government, particularly the U.S. Patent and Trademark Office, in support of efforts designed to curb abusive patent litigation and to ensure the highest-quality patents in our system. If confirmed, I also look forward to working with Congress to consider possible legislation, as part of a multifaceted approach to addressing abuses of the patent system.

### 3. Misappropriation of U.S. trade secrets

- a. **Do you believe that existing federal criminal and state civil law remedies adequately protect U.S. trade secrets from misappropriation?**
- b. **Would enacting a federal private right of action for trade secret misappropriation, such as that contained in S. 2467, the Defend Trade Secrets Act, help trade secret owners protect their trade secrets from theft and misappropriation?**
  - i. **If so, how?**

Intellectual property, including trade secrets, plays a crucial role in driving the U.S. economy. Trade secret theft can cripple a company's competitive advantage at home and in foreign markets, diminish export prospects around the globe, jeopardize American jobs, and threaten our national security. The threat posed to U.S. businesses by economic espionage carried out or directed by foreign governments, is of particular concern.

If confirmed, I will work tirelessly to promote efforts to strengthen domestic and international trade secret protection as well as to continue IPEC's leadership across the U.S. Government to combat the theft of trade secrets. More specifically, if confirmed, a top priority will be advancing implementation of the Administration's Strategy on Mitigating the Theft of U.S. Trade Secrets.

As a part of the effort to combat the theft of U.S. trade secrets, I believe we should explore multiple avenues including, if confirmed, working with you and other members of Congress on legislation directed at protecting U.S. trade secrets at home and abroad and combating trade secret theft.

### 4. International protection of trade secrets

**As you know, the U.S. Government has advocated in trade negotiations that Trans-Pacific Partnership member countries (and also Transatlantic Trade and Investment Partnership adopt provisions to criminalize the intentional theft of trade secrets. This is tremendously important to United States companies operating abroad. It is vital that foreign markets strengthen protections for trade secrets so that the valuable know-how underpinning the technological advances of our companies is not stolen.**

- a. **Please explain your commitment to the principle of criminal penalties as a way to deter trade secret theft and the steps you propose to take to ensure strong provisions are adopted internationally.**
- b. **Please explain the actions you propose to take to work within the U.S. government and the international community to strengthen trade secret protection, both civil and criminal.**

As the world's most innovative economy, strong and effective protection and enforcement of intellectual property rights is critical to U.S. economic growth and American jobs. It is important to build high standards of intellectual property protection and enforcement in the Trans-Pacific Partnership that will stand alongside those of prior U.S. Free Trade

Agreements in the Asia Pacific region. Moreover, the United States and the European Union have among the highest levels of intellectual property protection and enforcement in the world, and the Transatlantic Trade and Investment Partnership offers an important opportunity to advance our shared commitment to intellectual property and to strengthen U.S. and EU global leadership in its protection and enforcement.

If confirmed, I stand ready to work with the U.S. Trade Representative, the Departments of Commerce, State, Treasury, Homeland Security, and Justice, and the rest of the Administration to advocate for thoughtful and effective protection of intellectual property rights by our trading partners.

**Responses to Questions for the Record for  
Michelle K. Lee  
Nominee for Under Secretary of Commerce for Intellectual Property  
and Director of the U.S. Patent and Trademark Office  
Submitted on January 9, 2015**

**Senator Patrick Leahy (D-VT)**

1. **Earlier this year, I led a bipartisan Congressional Delegation to China to discuss stronger protections for American companies' intellectual property rights. I and other members of this Committee have long worked to support the PTO's IP attaché program, which places experts at U.S. embassies around the world to advocate for more effective IP protections in other nations. Despite these efforts, U.S. businesses and innovators face ongoing challenges in numerous important markets, including China, Brazil, India, and Russia.**

**Q: Is there more the Administration can do to support the IP attachés or otherwise enhance its efforts to strengthen IP enforcement in other countries?**

**Answer:** There are ongoing discussions within the Administration to elevate the diplomatic rank of the IP Attachés from their current diplomatic rank as "First Secretary" to the diplomatic rank of "Counselor." I believe that such changes and generally ensuring that these IP Attachés have sufficient resources to facilitate international IP policy discussions would be an important signal to our trading partners that IP is critical to the United States.

2. **I am concerned about an issue that impacts dairy farmers in Vermont and across the country. The European Union has recently advanced a particularly aggressive approach to protecting "Geographical Indications" in its trade agreements, which protect particular product designations to the cost of U.S. producers who make similar products.**

**Q: What can the PTO do to ensure an international standard for GI protection that does not unfairly disadvantage U.S. interests?**

**Answer:** The USPTO has been working for decades to address the EU geographical indication (GI) approach in third-country markets where the EU seeks protection for geographical indications through bilateral trade agreements, blocking U.S. imports. USPTO works closely with the U.S. Trade Representative to advance a trade agenda that both promotes appropriately balanced GI protection systems in our trading partners and responds to the EU's GI approach in third-country markets. We provide technical assistance around the world on geographical indication examination, protection and policy issues to promote GI protection in foreign markets that appropriately balances third-party interests, particularly those interests that rely on the use of common food names or trademarks that may conflict with EU GIs, including within the domain name system. Additionally, the USPTO is working to protect U.S. trade interests in connection with an EU-led effort to revise the World Intellectual Property Organization's 1958 Lisbon Agreement for the International Registration of Appellations of Origin to include geographical indications.

3. **The PTO has led delegations that concluded two meaningful copyright treaties in the last two years. The Marrakesh Treaty will improve the accessibility of books for visually impaired persons around the world. The Beijing Treaty will strengthen rights in audio-visual performances.**

**Q: These treaties are meaningful achievements, and I intend to support them in the Senate. Can Congress expect to receive transmittal materials from the Administration soon so that we can act to ratify and implement them?**

**Answer:** We are currently consulting with stakeholders and other departments and agencies on ratification and implementation of these two treaties. We are hopeful that the Administration will be in a position to send transmittal materials for both treaties to Congress early this year.

4. **The PTO was the lead agency responsible for the Department of Commerce's 2013 Green Paper on Copyright Policy in the Digital Economy.**

**Q: Can you provide an update on the work that PTO has undertaken arising out of the Green Paper, particularly its work with stakeholders to improve the "notice-and-takedown" process for removing infringing content under the Digital Millennium Copyright Act (DMCA)?**

**Answer:** The Green Paper was produced by the Department of Commerce's Internet Policy Task Force, led by USPTO and the National Telecommunications and Information Administration. Our follow-up to the Green Paper has progressed in three work streams: (1) the multi-stakeholder forum to improve operation of the Digital Millennium Copyright Act notice-and-takedown system; (2) preparation of a paper to address some of the policy issues identified in the Green Paper; and (3) exploring ways in which the government may be able to facilitate the further development of a robust online licensing environment.

The multi-stakeholder forum has made great progress toward agreement on a statement of "Good, Bad, and Situational Practices" for service providers and rights holders in the sending and processing of DMCA takedown notices. On December 18, 2014, the co-chairs of the forum's working group presented the forum with the draft statement, which represents eight months of public discussions, meetings, and negotiations in a process that was open to participation by all interested stakeholders. A broad range of practices for potential inclusion were considered and discussed, and this draft contains recommendations on issues within the scope of the group's work as to which best practices could be formulated. The draft will be considered by the forum's working group, and then by the entire forum if approved. We look forward to seeing a finalized statement soon.

The Task Force also has held four public roundtables around the country on several policy issues identified in the Green Paper: the legal framework for the creation of remixes; the relevance and scope of the first sale doctrine in the digital environment; and the appropriate calibration of statutory damages in the contexts of individual file sharers and of secondary liability for large-scale infringement. We are now in the process of drafting a paper on these issues, which we expect will be published early this year.

Finally, we are about to publish a second request for public comments on how the Federal Government can further the development of the online marketplace by, for example, assisting in the development of standard identifiers for works of authorship and interoperability among databases and systems used to identify owners and licensors of rights and terms of use. We plan to hold a public meeting on that topic in February or March.

5. **In my experience, the PTO has provided a valuable resource to Congress in considering patent-related legislation, on matters including not only the operation of the Office and the granting of patents, but also matters affecting the patent system as a whole. For example, the PTO has worked closely with the Federal judiciary in its work implementing the Leahy-Smith America Invents Act, and it also works with the Department of Justice in patent disputes that arise in court. Please elaborate on the role the PTO plays in interacting with the federal court system with respect to patents.**

**Answer:** The USPTO frequently interacts with the federal courts with respect to patents both as a party and as *amicus curiae*, i.e., friend of the court. The USPTO's Solicitor and members of his office regularly defend decisions of the USPTO's Patent Trial and Appeal Board (PTAB) before the U.S. Court of Appeals for the Federal Circuit. The USPTO also works closely with the Department of Justice (DOJ) in defending against actions brought against the Agency in district court, with its lawyers in certain cases becoming admitted as Special Assistant United States Attorneys to appear in those district courts and handle the cases directly. The USPTO's decisions following initial patent examination as well as patent reexamination and the various patent review proceedings created by the *Leahy-Smith America Invents Act* (AIA), are subject to judicial review. When the USPTO appears in those cases it provides its views of the specific dispute, as well as any larger patent law issue that may be presented by the case.

The USPTO also participates actively with other government agencies whenever the United States files an *amicus* brief in a patent case, or in most other cases involving intellectual property issues. Pursuant to 35 U.S.C. § 2(b)(9), the USPTO "shall advise Federal departments and agencies on matters of intellectual property policy in the United States and intellectual property protection in other countries." Thus, when the United States chooses to advise a federal court on a pending case involving questions of intellectual property law, the USPTO advises DOJ on these intellectual property issues.

Responses to Questions for the Record for  
Michelle K. Lee  
Nominee for Under Secretary of Commerce for Intellectual Property  
and Director of the U.S. Patent and Trademark Office  
*Submitted on January 9, 2015*

**Senator Dick Durbin (D-IL)**

1. **There is significant interest and a fair degree of anxiety among the patent stakeholder community over the USPTO's evolving analysis of patent subject matter eligibility under 35 U.S.C. § 101. On December 15, the USPTO issued interim guidance explaining the USPTO's interpretation of subject matter eligibility requirements in light of the *Alice Corp.*, *Myriad* and *Mayo* Supreme Court cases. This interim guidance is now open for a 90-day comment period, and stakeholders presumably will provide comments regarding the specific details of the guidance. I would like to ask several questions about the broader principles to which USPTO adheres when issuing such guidance.**

- a. **In comments submitted on July 31 regarding the USPTO's June 25 Preliminary Examination Instructions, the American Intellectual Property Law Association stated that "[a]lthough AIPLA agrees with much of what is said in its preliminary guidance on *Alice*, the preliminary guidance suggests that the PTO may apply the case law in a way that exceeds the scope of Supreme Court precedent." Do you believe it is appropriate for USPTO guidance to exceed the scope of Supreme Court precedent?**

**Answer:** USPTO works hard to ensure that its examination guidance reflects the law as enacted by Congress and as explained and applied by the courts.

- b. **In its comments, AIPLA urged the USPTO to "exercise caution in instructing Examiners on *Alice* to ensure that adequate attention is given to the factual context of the Court's reasoning and to discourage extrapolations that lead to new and unsupported rules of law." Do you agree that USPTO guidance should exercise such caution and should discourage extrapolations that lead to new and unsupported rules of law?**

**Answer:** USPTO carefully considers the guidance it provides to its examiners. In the case of the most recent examination guidelines on patentable subject matter, we have instituted an iterative process with periodic supplements based on court developments and on public feedback as appropriate. This process helps ensure that our guidance is well-supported and contributes to well-supported decisions.

- c. **In its comments, AIPLA noted that the *Alice* Court said, regarding what an "abstract idea" might be, that "we tread carefully in construing this exclusionary principle lest it swallow all of patent law." The AIPLA comments said that this "admonition should be observed by the Office and Examiners alike." Do you agree that the Court's admonition to "tread carefully" should be observed by USPTO and examiners?**

**Answer:** USPTO strives to encourage careful consideration of patent applications by its examiners and of broader patent issues.

- d. **In a December 12 op-ed in "The Hill," former Commissioner for Patents Robert Stoll said the following about the June 25 guidance: "In trying to implement the spate of patent eligibility cases emanating from the Supreme Court, it seems the USPTO has gone beyond**

what was required by the court...what the user community really wants is for the office to clearly stay within the confines of the narrow decisions and use the other sections of the patent law more: those dealing with enablement, written description, and clarity and obviousness.” Do you agree that the USPTO should “clearly stay within the confines of the narrow decisions” issued by the Supreme Court in drafting guidance?

**Answer:** USPTO is mindful to craft guidance that stays within the confines of Supreme Court precedent. However, it is important to note that *Alice Corp.*, for example, is only one of a number of recent court cases that make up the body of precedent on subject matter eligibility – several recent court appeals decisions also have applied and interpreted *Alice Corp.* The Office must take into account the statute as enacted by Congress and the entire body of relevant case law in providing guidance to its examiners.

2. In recent days, there have been numerous news stories discussing the USPTO’s Sensitive Application Warning System (SAWS). According to a USPTO memorandum obtained through FOIA, the SAWS program applies to “patent applications that include sensitive subject matter” and flags such applications on a database for additional levels of review. One tech columnist described the SAWS program as “a covert system for delaying controversial or inconvenient patents” that “if abused, could function as a way to limit or stomp out emerging companies.” Please answer the following questions regarding the SAWS program:

- a. How long has the SAWS program been in operation?

**Answer:** The SAWS program has been in existence since the mid-1990s.

- b. On what legal authority is the SAWS program based?

**Answer:** Under the patent laws, the Director is charged with general management and supervision of the Office and of the issuance of patents, as well as the management of examination of patent applications. To this end, the USPTO has put in place quality controls to ensure that patents are properly issued or properly denied. The SAWS program is one such quality control effort.

- c. What are the criteria used to flag applications under the SAWS program?

**Answer:** The SAWS program assists the USPTO in identifying and processing patent applications of special interest, i.e., those that raise sensitive and important issues or that may have a strong impact in the patent community. Examples of subject matter of special interest include: cold fusion, perpetual motion machines, and human cloning.

- d. How many applications were flagged under the SAWS program

- i. In 2014?

**Answer:** In FY2014, 216 applications were flagged.

- ii. In 2013?

**Answer:** In FY2013, 263 applications were flagged.

- iii. Over the life of the program?



**Answer:** Since 2009, when the USPTO began using a database to track these applications, 2262 applications have been flagged.

- e. **Are applicants ever notified when an application is placed in the SAWS system? If not, why not?**

**Answer:** Applicants generally are not notified when a quality assurance check has been used in any particular review. An application identified for a SAWS quality assurance check undergoes the same types of examination procedures as any other patent application, and is held to the same substantive patentability standards.

- f. **Does USPTO intend to provide guidance to applicants explaining the SAWS program and how it may impact prosecution of applicants' patents?**

**Answer:** Yes. The USPTO intends to describe the SAWS program in a forthcoming Manual of Patent Examining Procedure release. And, to help ensure that this quality assurance program continues to operate well, the Agency is currently reviewing the program and will work to ensure that the program does not subject applications to unnecessary delays.

3. **When Congress changes the patent laws with the stated goal of reining in unproductive patent trolls, these new laws often end up being tools that competitors use to challenge the patents of legitimate, productive companies.**

**We are seeing this now with the Covered Business Method (CBM) Patent Review Program that was created by Section 18 of the America Invents Act. I voted for the America Invents Act after I received assurances on the legislative record from the author of Section 18 that this program would not be used to sweep in and threaten job-creating technological patents such as patents for graphical user interfaces that are widely used within the electronic trading industry. But despite these assurances, an Illinois company named Trading Technologies, which employs 300 people in my state making these graphical user interface tools, has seen its patents challenged in CBM proceedings by a giant competitor. These CBM proceedings have created enormous expense and risk for a productive employer in my state that is clearly not a patent troll. That was not what Congress intended, and it is troubling.**

**Will you commit to look into this concern about overbroad application of the CBM review program, and make sure that it is not sweeping in legitimate patents in contravention of Section 18's legislative history?**

**Answer:** If confirmed, I will work to ensure that USPTO review programs and administrative proceedings are properly managed in a manner consistent with applicable law and regulations. Under the *Leahy-Smith America Invents Act* (AIA), CBM reviews are *inter partes* in nature, and the decisions made in these proceedings are rendered solely on the basis of submissions made by the parties to the Patent Trial and Appeal Board (PTAB) judges presiding over the cases. The PTAB endeavors to be true to the constraints of such trial settings by relying only on the arguments and evidence provided by the parties through their counsel. I am confident that PTAB judges take seriously their responsibility to follow carefully the strictures of the statute.

**4. Since you took over Acting Director responsibilities, what has the PTO been doing to protect American inventors from foreign infringers?**

**Answer:** The USPTO has increased resources toward its efforts to provide policy guidance and technical advice in enforcement-related domestic and international intellectual property matters. At the international level, the USPTO provides analysis and advice on foreign IP enforcement compliance, including assistance in negotiating new international enforcement obligations in foreign trade agreements, and advises on its implementation under U.S. law. At the domestic level, the USPTO provides analysis and advice on combatting counterfeiting, piracy and trade secret theft.

The USPTO is actively engaged in providing technical assistance and training on enforcement-related matters domestically and abroad. Internationally, such training and capacity-building activities include programs addressing civil enforcement, criminal enforcement, border enforcement, administrative enforcement, the need for trade secrets protection, asset forfeiture, and public education/outreach training on enforcement issues. Participants include foreign government officials involved in enforcement and policy-making, law enforcement officials, public prosecutors, customs and border enforcement officials, and the judiciary. These programs take the form of workshops, outreach events, and seminars, and are developed with the aim of sharing U.S. experiences and best practices for effectively protecting and enforcing intellectual property rights.

Domestically, the USPTO conducts increasingly robust educational outreach to U.S. small- to medium-sized businesses, covering the full range of intellectual property including patents, trade secrets, trademarks, and copyright as well as intellectual property issues arising on the Internet. This outreach includes the particularly well-received "IP Boot Camp," which is offered throughout the U.S., the "China IP Road Shows" and related "mini-events" focusing on intellectual property issues in China (as well as similar initiatives for other countries, e.g., Brazil), and issue-focused webinars. Additionally, the USPTO staffs intellectual property information booths at industry trade shows and makes presentations at industry events. The USPTO works closely with other federal agencies to ensure in-depth training for U.S. business and to broaden our reach including, e.g., the FBI and the International Trade Administration (helping to develop and present in the ITA STOPfakes.gov Road Shows). The USPTO also provides training opportunities for federal and state government business counselors, offering "train-the-trainer" webinars and participation in business counselor conferences and initiatives, including the America's Small Business Development Centers Annual Conference.

Responses to Questions for the Record for  
Michelle K. Lee  
Nominee for Under Secretary of Commerce for Intellectual Property  
and Director of the U.S. Patent and Trademark Office  
*Submitted on January 9, 2015*

**Senator Christopher Coons (D-DE)**

**1. Implementation of Leahy-Smith America Invents Act programs**

At your nomination hearing you noted that *AIA* post-grant programs have been “exceedingly popular with stakeholders.” At the same time, you have recently solicited and received significant input regarding the implementation of *AIA* post-grant programs.

**a. Who do you consider to be “stakeholders” of the patent system?**

**Answer:** The USPTO’s patent stakeholders include users of the USPTO’s patent services as well as the patent system at large. This would include patent applicants (e.g., independent inventors, academic researcher-inventors, and corporate inventors), patent owners, parties in the USPTO’s Patent Trial and Appeal Board (PTAB) proceedings as well as the American public who stands to benefit from innovation incentivized by a U.S. patent.

**b. Are you aware of any stakeholders who are less enthusiastic regarding the implementation of *AIA* post-grant programs? If so, what concerns have such stakeholders expressed?**

**Answer:** Some stakeholders appear to be less enthusiastic than others regarding the implementation of the *AIA* post-grant programs. The Office conducted a nationwide listening tour in April and May of 2014. As a result, in June of 2014, the Office published a Request for Comments in the Federal Register and, at stakeholder request, extended the period for receiving comments to October 16, 2014. The Request for Comments asked 17 questions on ten broad topics, including a general catchall question, to elicit any proposed changes to the *AIA* post-grant program that stakeholders believe would be beneficial. The Office received 37 comments from bar associations, corporations, and individuals, encompassing a wide range of issues. Several comments expressed satisfaction with the current *AIA* post-grant programs, and some comments offered suggestions on how to further strengthen the programs. Some suggested improvements include those relating to the claim construction standard used by the PTAB, motions to amend, discovery procedures, and handling of multiple proceedings.

**c. What are your plans for reform of post-grant procedures, now having received comments on this topic?**

**Answer:** The Office is carefully reviewing all comments received in response to the Request for Comments and plans to issue an initial set of rules and/or guidance changes in the second quarter of fiscal year 2015 that encompass simple modifications. Next, the Office intends to issue a set of proposed rule and/or guidance changes in the third or fourth quarter of fiscal year 2015 that will encompass more involved modifications. After advancing this proposed rulemaking, the plan is for the public to have 60 days to comment. The Office then intends to consider all comments and issue final rules and/or guidance in the Federal Register with a delayed effective date of 30 days. In using this two phased approach, the PTAB seeks to be as responsive to the public as possible in the shortest amount of time.

**d. How do you measure the success of AIA post-grant procedures?**

**Answer:** I am pleased that the AIA trial proceedings have provided a quicker, less expensive alternative to patent litigation in U.S. district courts, and the public has recognized their value by filing nearly 1,500 total petitions last fiscal year alone – three times more than was expected when first implemented. The success of AIA post-grant procedures is measured, in part by the PTAB’s ability to render sound decisions based upon full and fair consideration of all of the evidence presented within the timeframes mandated by the *Leahy-Smith America Invents Act* (AIA). The success is further rooted in the PTAB’s ability to render a decision on institution within three months of the patent owner’s preliminary response, and to render a final determination on patentability within twelve months from institution of a proceeding. The PTAB also measures the success of AIA post-grant procedures in part by its ability to ensure fairness to all parties and to afford them due process through its procedures and orders.

**i. Is a post-grant procedure that leads to invalidation of patents at a high rate an indication that the post-grant procedure is a success?**

**Answer:** The PTAB carefully considers the merits of each petition and makes decisions based upon the arguments and evidence presented, following the strictures of the law. The rates at which patent claims are found invalid are indicative of the merits of the arguments and evidence presented by the parties to a proceeding. The careful adjudication of the matters according to the law is a key hallmark of success. The actual rate of invalidation of patents does not serve, in and of itself, as an indication that the post-grant procedure is a success.

**ii. Are post-grant procedures invalidating valid patents or upholding patents that should be invalidated? How does USPTO evaluate whether and how frequently either or both are occurring?**

**Answer:** The PTAB does not characterize the outcome of its post-grant proceeding decisions as either invalidating valid patents or upholding patents that should be invalidated. All PTAB decisions are rendered by at least three judges, who strive for correctness in their decisions. The presence of a plurality of judges serves as a first, fundamental check against incorrect rulings because each judge on a panel essentially is charged with quality review. Parties who believe the PTAB has erred in a decision are able to request reconsideration of the decision, pointing out the matters believed to have been misapprehended or overlooked. Additionally, each final written decision is appealable to the United States Court of Appeals for the Federal Circuit and the United States Supreme Court.

**e. What changes do you think should be made to PTAB trial practice to improve its operations and weed out low quality patents?**

**Answer:** The Office is currently evaluating changes to the AIA trials and will issue its recommended changes in the rulemakings and/or guidance changes described previously.

**f. What is your view on the Broadest Reasonable Interpretation standard?**

**Answer:** The USPTO reads patent claims for their broadest reasonable interpretation, both during initial examination of patent applications, as well as in the various post-issuance proceedings that Congress has established. The USPTO has employed this approach to claim

construction in post-issuance proceedings since the first such proceeding was created more than thirty years ago, and in initial examination for more than a century.

The *Leahy-Smith America Invents Act* (AIA) grants the Director broad authority to “prescribe regulations . . . establishing and governing inter partes review.” 35 U.S.C. § 316(a)(4); see also id. § 326(a)(4) (post-grant review). Pursuant to that authority, the Director adopted a regulation providing that in an *inter partes* or post-grant review, “[a] claim in an unexpired patent shall be given its broadest reasonable construction in light of the specification of the patent in which it appears.” 37 C.F.R. § 42.200(b). See *Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents*, 77 Fed. Reg. 48,680, 48,688 (Aug. 14, 2012). Part of the reason why the USPTO reads claims for their broadest reasonable interpretation during *inter partes* and post-grant reviews is because the patent owner has an opportunity to amend its claims in these proceedings. See 35 U.S.C. § 316(d)(1)(B); id. § 316(a)(9); 37 C.F.R. § 42.121.

The AIA’s new post-issuance proceedings, which are conducted before the PTAB, have proven increasingly popular (based upon the number of petitions filed) with patent litigants. After about a year and a half experience with these new proceedings, the USPTO hosted a number of roundtables nationwide. The Agency shared with the public best practices before the PTAB and received input from the public on ways to strengthen the new AIA proceedings. The USPTO heard from some that the proceedings provide an important check on patent quality, while it heard from others ways the proceedings could be improved.

If confirmed as Director, I look forward to listening carefully and working closely with all stakeholders to further strengthen these proceedings.

**g. When can the public expect the USPTO response to the submitted comments?**

**Answer:** As previously mentioned, the USPTO expects to release a first set of rule and/or guidance changes in the second quarter of fiscal year 2015 and a second set of rule and/or guidance changes in the third or fourth quarter of fiscal year 2015.

**b. Currently the patent owner is limited to “one motion to amend the patent” which is subject to PTAB approval. Will the PTAB revise its procedure for the patent owner to more easily amend its claims during IPR proceedings?**

**Answer:** Sections 316(a)(9) and 326(a)(9) of Title 35, United States Code, require the Director to prescribe regulations “setting forth standards and procedures for allowing the patent owner to move to amend the patent under subsection (d) to cancel a challenged claim or propose a reasonable number of substitute claims.” The Office has created rules and procedures in accordance with the statute. The Office is currently considering whether to revise its procedures based upon the public feedback obtained in the Request for Comments discussed earlier. For example, the Office is contemplating issuing a rule change to permit a claims appendix and/or enlarge the number of pages permitted in a motion to amend. Any such changes or proposals will appear in the forthcoming rulemakings discussed previously.

**2. Antitrust and intellectual property**

**Both the Department of Justice and the Federal Trade Commission have been active in shaping the legal landscape that balances antitrust and intellectual property rights. Their activities have included proposals to standard-setting organizations (see**

<http://www.justice.gov/atr/public/speeches/287855.pdf> and advocacy for “patent reform” legislation.

**a. What has been your involvement with FTC and DOJ efforts in the patent area?**

**Answer:** Since becoming the Deputy Director of the USPTO on January 13, 2014, I have overseen the USPTO’s engagement with these agencies, described below.

**b. What is the role of PTO in working with the FTC and DOJ on issues affecting intellectual property rights?**

**Answer:** As executive-branch agencies, the USPTO and Department of Justice (DOJ), along with other governmental agencies and components, consult on governmental initiatives affecting antitrust and intellectual property rights.

For example, this year, the USPTO and the National Institute of Standards and Technology worked with DOJ and the United States Trade Representative as part of a White House effort that led the U.S. Intellectual Property Enforcement Coordinator to develop a United States position on standards essential patent policy at the International Telecommunication Union. The USPTO participates, through the International Trade Administration and DOC, in the presidential review process of exclusion orders issued by the U.S. International Trade Commission (ITC) as remedies for patent infringement. The USPTO in 2013 also issued with DOJ a joint policy statement concerning remedies for standards-essential patents subject to voluntary F/RAND commitments.

Because the Federal Trade Commission (FTC) is an independent agency and has not been a formal part of many of the executive branch consultations described above, the USPTO has had less direct engagement working with the FTC on issues affecting intellectual property rights and antitrust. The USPTO, however, has been working with both the DOJ and FTC, together with many of the other governmental units mentioned above, on policy and educational efforts related to intellectual property and competition law issues abroad including in China and India.

**3. Abuse of the patent system**

**At your nomination hearing you explained that abuses of the patent system (or “trolling”) is best defined as an activity rather than a type of entity or business model.**

**a. Why is it more helpful to define abuses with respect to certain activities (e.g., threatening demand letters) rather than certain companies (e.g., companies that do not engage in manufacturing)?**

**Answer:** A goal of some of the proposed patent reform provisions is to curtail or limit abusive litigation practices. The objectionable practices can be utilized by any patent owner, regardless whether the patent owner is or is not engaged in manufacturing. Accordingly, targeting the objectionable practices is more likely to achieve the intended result.

**i. In general, do you believe the U.S. patent system should distinguish between patent-holders who manufacture products and those who do not? If not, why not?**

**Answer:** In general, the patent system seeks to promote innovation by all inventors in all technologies without regard to the particular type of entity or business model.

**b. If “trolling” is an activity, how do you distinguish it from valid enforcement activity?**

**Answer:** The term “trolling” is used as shorthand for enforcement efforts that utilize abusive litigation practices. Such practices are generally absent from what is considered valid enforcement activity.

**c. At your nomination hearing you stated that further legislation to restrain abusive conduct in the patent system would be helpful. In your view, what legislative provisions would be most helpful?**

**Answer:** In crafting balanced, meaningful and consensus-based legislation, I believe that the issues discussed in the 113<sup>th</sup> Congress are worthy of consideration and discussion again in the 114<sup>th</sup> Congress. Further review and discussion of these and any other issues should take into account the changes in the patent-law landscape reflected in recent court decisions and the USPTO’s initiatives, including implementation of the AIA and numerous administrative actions focused on patent quality and on litigation abuse issues.

**d. Would legislative proposals that make it more difficult to enforce a patent right potentially disadvantage U.S. manufacturers attempting to challenge foreign infringing goods?**

**Answer:** Legislation that makes it more difficult to enforce patents could disadvantage domestic as well as international patent holders. The goal of any proposed legislation should be to promote innovation, not litigation, and legislation should not favor any patent owner on the basis of his or her technology or nationality or otherwise make it more difficult to enforce legitimate patent rights.

**i. If so, is that an important consideration when changing the rules of the patent system or patent enforcement?**

**Answer:** Yes, patent reform legislation should be crafted in a manner to preserve the legitimate enforcement of patent rights.

**4. Patent Public Advisory Committee**

**The Public Patent Advisory Committees for the USPTO were created by statute in the American Inventors Protection Act of 1999 to advise the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on the management of the patent and the trademark operations. You were a member of PPAC.**

**a. How effective has this organization been in advising the USPTO?**

**Answer:** Based upon my experience, the **Public Patent Advisory Committees (PPAC)** has provided invaluable advice on the management of various aspects of the USPTO including, for example, examination guidelines, rulemaking, IT modernization, fee setting and efforts to reduce pendency and backlog.

- b. **Are there any changes you would like to see from either PPAC or others to provide input to USPTO operations?**

**Answer:** As noted above, I am pleased with the input provided by the PPAC regarding USPTO operations and do not have, at this point, any suggestions to alter its advisory efforts. With respect to seeking input from others, the USPTO has actively sought stakeholder input throughout the year on a wide range of issues including, for example, PTAB procedures, examination guidelines, and examination quality assessment.

5. **Patents for Humanity**

**Earlier this year the Administration announced the extension of this effort, the USPTO's annual award competition that recognizes patent owners and licensees working to improve global health and living standards for the less fortunate. From all reports, the program has been a success. In particular, it can draw attention to the importance that inventors and patent systems play in fostering innovation that solves the world's problems while recognizing companies who bring life-saving technologies to underserved people of the world.**

- a. **Please describe your views of the program. Is it having the desired effect?**

**Answer:** Patents for Humanity has achieved much success at highlighting the role that innovators and patents play in solving global challenges. The public has responded positively to the program and the ten winners announced in 2013. Through programs like Patents for Humanity, the public is becoming increasingly aware of how patents and other patent holders can help save lives and improve the standard of living of many. It is my understanding that the Patents for Humanity winners from 2013 have been very pleased with the value they received from winning the award, particularly the increased exposure. We have received inquiries about the program from several countries, including Korea, Japan, and France.

- b. **How could it be upgraded to have a greater impact?**

**Answer:** Our stakeholders frequently request that the acceleration certificates awarded through the program be made transferable, so they can be freely sold on the open market. Legislation introduced in the 113<sup>th</sup> Congress, S. 712, the "Patents for Humanity Program Improvement Act of 2013" would have provided such transferability. The USPTO supports this change as a way to bring more value into the system. Award winners, particularly small companies for whom access to capital is critical, will benefit by turning their certificates into needed funding which can help grow their operations. Transferability would also bring a new type of participant into the program: certificate purchasers, who financially support humanitarian work by buying certificates. The operational safeguards already built into Patents for Humanity certificates prevents them from being used as a weapon in patent litigation, so transferability would not significantly impact litigation.

6. **Myriad/Mayo Guidelines**

**The USPTO was criticized for the process it used when issuing new guidelines following the *Myriad* and *Mayo* decisions (see, e.g., <http://www.managingip.com/Article/3325569/USPTO-responds-to-criticism-of-post-Myriad-guidelines.html>)**

- a. **What are the lessons learned from the *Myriad/Mayo* guidelines process, and how will the USPTO change its process for issuing guidelines in the future?**



**Answer:** When the USPTO issued the Myriad/Mayo guidelines, it would have been helpful to have made clear, at time of publication of the guidance, that the Agency wanted feedback from the public and was willing to work with the public to adjust the guidance as appropriate. Learning from the previous process, the USPTO recently issued guidance on December 16, 2014, along with a dedicated webpage and Commissioner's blog post, clearly setting forth a public comment period, announcing a public forum in January 2015, and explaining that the development of the guidance will be an iterative process designed to adapt, as appropriate, to public comment and judicial developments.

If confirmed as Director of the USPTO, I intend to promote transparency, and encourage input on the development and refinement of examination guidance as well as other aspects of the Agency's operations.

7. **SAWS program**

- a. **Could you explain how the Sensitive Application Warning System (SAWS) works at USPTO, and how you will ensure that it does not result in unnecessary delays in processing valid patent applications?**

**Answer:** The Sensitive Application Warning System program is one of many practical, internal efforts that the USPTO has in place to ensure that only the highest quality patents are issued by the Agency. By bringing an additional quality assurance check to a very small number of pending patent applications, the USPTO helps ensure that those applications that could potentially be of special interest, are properly issued or properly denied. An application flagged for such a quality assurance check undergoes the same types of examination procedures as any other patent application, and is held to the same substantive patentability standards.

Finally, to help ensure that this quality assurance program continues to operate well, the Agency is currently reviewing the program and will work to ensure that the program does not subject applications to unnecessary delays.

**Responses to Questions for the Record for  
Michelle K. Lee  
Nominee for Under Secretary of Commerce for Intellectual Property  
and Director of the U.S. Patent and Trademark Office  
Submitted on January 9, 2015**

**Senator Chuck Grassley (R-IA)**

- 1. Although the title leaves out Copyright, the Patent and Trademark Director also serves as the principal advisor on copyright to the President. However, as you know, the federal government's expertise on copyright matters resides within the Copyright Office, which operates as part of Library of Congress under the Legislative Branch. The interagency process therefore becomes absolutely critical on copyright policy as, for example, the USPTO works with the World Intellectual Property Organization (WIPO), the US Trade Representative negotiates the critical IP chapter of the Trans-Pacific Partnership, and the USPTO undertakes green papers and stakeholder discussions on music licensing and DMCA notices.**

**a. How have you worked with the Copyright Office and Register Maria Pallante?**

**Answer:** I have met with, and the USPTO team of copyright experts in the Office of Policy and International Affairs works closely with, the Copyright Office and Register Pallante on a full range of international and domestic copyright policy matters.

On the international side, the Copyright Office regularly participates in WIPO meetings as a key member of the U.S. delegation, including in the Standing Committee for Copyright and Related Rights. The USPTO coordinates with the Copyright Office in the implementation and ratification of WIPO copyright treaties, such as the Beijing Treaty on Audiovisual Performances and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. In addition, the USPTO and the Copyright Office consult closely in their roles as technical advisors to the U.S. Trade Representative, including in the negotiation of the IP chapter of the Trans-Pacific Partnership. The two Offices also work together on copyright issues that arise in other intergovernmental organizations such as the OECD.

Domestically, the USPTO consults regularly with the Copyright Office on copyright policy issues, such as in the preparation of the Department of Commerce Green Paper on *Copyright Policy, Creativity, and Innovation in the Digital Economy*. The USPTO has also invited the Register and her staff to participate in all of the public programs and events resulting from the Green Paper, as well as interagency discussions of the digital marketplace issues, and the USPTO has been pleased to welcome them whenever they have been able to join. In addition, Copyright Office staff regularly participate in copyright-related programs that we conduct at our Global Intellectual Property Academy.

In sum, the USPTO and the Copyright Office have a positive and productive working relationship. We consult with them on a regular basis on all major copyright-related issues that arise.

**b. How will you ensure the Copyright Office's place at the table for all copyright discussions?**

**Answer:** If confirmed, I will ensure that the USPTO continues to work with the Copyright Office in the ways described above, collaborating and consulting on all major copyright policy matters that the USPTO addresses, informing the Copyright Office of developments within the

Department of Commerce and the Administration, and inviting them to participate in international, interagency and public meetings.

2. **The Pro-IP Act of 2008 created attaches at embassies in countries with critical IP protection and enforcement issues. Infringement has become a complex global problem, and tackling it requires both expertise at our embassies and new inroads with foreign governments and businesses. How will you work to continue the success of the attaches and ensure that their resources work to the benefit of all IP rights holders?**

**Answer:** The USPTO has been marketing new IP Attaché positions through social media, roundtable discussions and other outreach efforts to maintain a consistent pool of talented applicants. The Agency has also invested significant resources in training the new IP Attachés. Furthermore, the USPTO has expanded its teams of specialized patent, trademark, copyright and enforcement attorneys at USPTO headquarters, who provide guidance and support to the IP Attachés.

In addition, there are ongoing discussions within the Administration to elevate the diplomatic ranks of the IP Attachés from their current diplomatic rank as “First Secretary” to the diplomatic rank of “Counselor. I believe that such changes and generally ensuring that these IP Attachés have sufficient resources to facilitate international IP policy discussions would be an important signal to our trading partners that IP is critical to the United States.

3. **In your July 2014 testimony before the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet, you stated that “the USPTO believes that additional legislative changes to build upon the AIA are needed to further enhance patent quality and to lessen litigation abuses in the system.” Can you describe specifically what you have in mind?**

**Answer:** In crafting balanced, meaningful and consensus-based legislation, I believe that the issues discussed in the 113th Congress are worthy of consideration and discussion again in the 114th Congress. Further review and discussion of these and any other issues should take into account the changes in the patent-law landscape reflected in recent court decisions and the USPTO’s initiatives including implementation of AIA post-grant proceedings and numerous administrative actions focused on patent quality and on litigation abuse issues.

4. **What do you view as the biggest challenge to successful implementation of the AIA?**

**Answer:** The biggest challenge for the Agency in implementing the various provisions was to secure the input of a wide range of stakeholders while also issuing rules in a timely manner. Specifically, the Agency was charged with implementing 28 provisions within 18 months of the date that the AIA became law. The Agency conducted rulemaking to implement 13 of these provisions, which is a complex, multi-step process involving publication of proposed rules, collection of public input, issuance of final rules, and public training sessions. In parallel, the Agency also was charged with preparing three reports on various IP topics (and four additional reports within the next 30 months). To prepare the reports, the Agency held several hearings and solicited written comments from the public to ensure that it provided Congress with the most current and accurate information possible. Further in parallel, the Agency was required to establish four new post-issuance patent-review programs, which again required the Agency to solicit and consider public input. I am very proud that the dedicated staff of the USPTO was able to successfully implement so many provisions of law in such a short time period.

5. **I'm interested in hearing your thoughts on how we could improve efficiencies at the USPTO. Could you share some specific solutions you have in mind to make the USPTO more efficient? How is the USPTO engaging with stakeholders to improve its efficiency and effectiveness, and what specifically is the agency hearing from stakeholders regarding areas of needed improvement?**

**Answer:** In pursuit of our strategic goals, particularly optimizing both patent and trademark quality and timeliness, the USPTO constantly strives to increase efficiency and effectiveness in all facets of our operations with active engagement from our management, workforce, and stakeholders. If confirmed, I would continue to pursue the following initiatives:

- To better measure performance, the USPTO is working with the Patent Public Advisory Committee (PPAC) and stakeholders nationwide to reassess the Agency's patent quality metrics and refine long-term patent pendency goals.
- The USPTO continues to focus on more effective examiner training methods to further enhance examination fundamentals as well as communication and cooperation between the examiner and applicant. The USPTO already utilizes a highly successful training and refresher training program that encompasses more than 20 modules designed to enhance examiners' knowledge and skills in procedural and legal topics pertaining to patent examination.
- We also implemented the Patent Examiner Technical Training Program and Site Experience Education Program, which provide patent examiners with direct access to experts who are able to share their technical knowledge on prior art and industry standards in areas of emerging and established technologies.
- The USPTO continues to work toward global patent harmonization with other major foreign IP offices to optimize work sharing among offices and to reduce duplicate work to enhance efficiency. The USPTO introduced the Global Patent Prosecution Highway, a streamlined network replacing dozens of existing bilateral arrangements, speeding up the examination process among participating offices.
- Finally, by January 2015, the USPTO will have completed an extensive effort to transition from the United States Patent Classification System to the Cooperative Patent Classification System. Transitioning to a patent classification system that is more up-to-date and adopted by an increasing number of countries should result in better quality patents faster and most cost-effectively for innovators.
- Upon completion of a rulemaking process which includes engagement with our trademark stakeholders, the USPTO plans to offer lower cost fee options for filing electronic trademark applications and renewals of registrations in early 2015. The lower cost fee proposal would not only save eligible trademark applicants money but also, and importantly, support the USPTO's strategic objective to increase the end-to-end electronic processing of trademark applications, resulting in greater efficiencies for the USPTO and its customers.
- The USPTO continues to increase its examination capacity and efficiency by employing new recruitment and development models to hire, train, and retain a highly skilled and diverse workforce. For instance, the USPTO's satellite offices expand recruitment opportunities of new highly-skilled candidates who are located across the country. These satellite offices also significantly expand access to the USPTO's outreach and education programs to a wider range of our country's innovators.
- The USPTO will continue to make progress toward improving operations and services through the modernization of its next-generation information technology systems, particularly Patents End-to-End (PE2E) and Trademarks Next Generation (TMNG) systems. For the

PE2E system, the USPTO has deployed new tools for patent examiner pilot users, converted 114 million image-based patent applications to searchable text-based applications, and delivered a harmonized patent classification system between the European Patent Office and the USPTO. For the TMNG system, the USPTO enhanced the Trademark Electronic Gazette, completed trademark examination capabilities for First Action Approval for Publication, and delivered a new trademark reporting and datamart capability for generating reports, such as employee productivity reports and quality reports.

**6. Do you have any ideas on how we might combat and deter infringement and promote honest business practices in the use and development of intellectual property abroad? What is your plan to promote stronger patent systems and protections internationally?**

**Answer:** The United States has long held that criminal enforcement of IP rights is the most effective way to deter commercial-scale organized criminal counterfeiters and pirates. Penalties that include sentences of imprisonment as well as monetary fines sufficient to provide a deterrent to future infringements, consistent with a policy of removing the infringer's monetary incentive, are essential tools in the fight against these infringing activities. In the civil context, judicial authorities should have the authority to order that materials and implements that have been used in the manufacture or creation of such infringing goods be promptly destroyed. Additionally, judges should have the authority to order infringers to pay the right holder damages adequate to compensate for the injury that the right holder has suffered as a result of the infringement. In the border context, the national competent authority should have authority to initiate border measures ex officio with respect to imported, exported, or in-transit merchandise without the need for a formal complaint from the right holder.

The USPTO will continue to enhance its active engagement in providing technical assistance and training on enforcement-related matters domestically and abroad. Internationally, such training and capacity-building activities include programs addressing civil enforcement, criminal enforcement, border enforcement, administrative enforcement, the need for trade secrets protection, asset forfeiture, and public education/outreach training on enforcement issues. Domestically, the USPTO conducts increasingly robust educational outreach to U.S. small- to medium-sized businesses, covering the full range of intellectual property including patents, trade secrets, trademarks, and copyright as well as intellectual property issues arising on the Internet.

The USPTO will continue to take an active role in encouraging the adoption of patent systems that promote and support innovation. The USPTO provides patent-related training and technical assistance programs throughout the world, focusing on developing countries.

Also, the USPTO provides advice and support to the U.S. Trade Representative in negotiating new patent-related obligations in foreign trade agreements. Through these agreements, our trading partners have agreed to enhanced levels of patent protection.

The USPTO will continue to work directly with patent offices throughout the world to advocate for patent systems supportive of innovation. The USPTO has expanded the dialogue with patent offices through its IP Attaché program, which makes IP experts available on the ground in key markets to meet directly with stakeholders and local patent officials.

**7. In June 2014, the Trademark Trial and Appeal Board ruled in a 2-1 decision that the federal trademark registrations for the Washington Redskins football team should be cancelled due to the disparaging nature of the marks toward Native Americans.**

**a. Can you please explain specifically what role you had in this proceeding, if any?**

**Answer:** I had no role in hearing or making the decision reached in this proceeding. The case was heard before a three-judge panel of the Trademark Trial and Appeal Board (TTAB), which reached a decision based on what the judges believed to be the correct result in view of the applicable law and evidence of record in the proceeding.

**b. In your opinion, was the correct decision reached by TTAB in this dispute?**

**Answer:** The decision is presently under review by the U.S. District Court for the Eastern District of Virginia and I, therefore, cannot comment on it.

**c. And, in general, do you believe that disputes of this sort are properly within the purview of the USPTO?**

**Answer:** Congress mandated through the Trademark Act of 1946 that such disputes should be adjudicated by the USPTO. The USPTO administers the federal registration provisions of the Trademark Act of 1946, 15 U.S.C. § 1051 et seq. In Section 2, Congress specified that the types of terms or marks that are ineligible for federal registration include terms that may disparage persons or bring them into contempt or disrepute. Congress also provided that any person who believes that he or she will be damaged by the continuing registration of a mark may file a petition with the TTAB to cancel the registration, asserting grounds for cancellation under Section 2.

**8. In 2009 you wrote that “awarding patents on abstract ideas and processes, like the claim at issue in the Bilski case, poses a serious threat to innovation, job creation, and economic growth.**

**a. Can you explain your understanding of what an abstract idea or process is?**

**Answer:** An abstract idea is one of the types of judicial exceptions defined by the Supreme Court that is excluded from eligibility for patent. Concepts that have been identified as abstract ideas by the Supreme Court include fundamental economic concepts, mathematical relationships, certain methods of organizing human activities, and ideas standing alone. A claim that recites an abstract idea also must recite limitations that amount to significantly more than the abstract idea to qualify as eligible subject matter for patenting. The prohibition against patenting abstract ideas standing alone is to ensure that fundamental principles on which innovation is based are free to use by all.

**b. Where do you draw the line on what should or should not be considered patentable?**

**Answer:** The line on patentability is drawn by statute. It is the Office’s duty to examine patent applications for patent eligibility based on the requirements imposed by 35 U.S.C. 101, as it has been interpreted by the Supreme Court. The standard requires that an invention fall within one of the four categories of invention, which include process, machine, manufacture, or composition of matter or any new and useful improvement thereof, and that the invention not wholly encompass a judicially recognized exception, commonly called an abstract idea, a law of nature or a natural phenomenon.

9. **In the Department of Commerce's Internet Policy Task Force Green Paper on Copyright Policy, Creativity, and Innovation in the Digital Economy, released on July 31, 2013, the Task Force stated its intention to establish a multi-stakeholder forum aimed at improving the operation of the notice-and-takedown system for removing infringing content from the Internet under the DMCA. I understand that the USPTO has been very active in those stakeholder discussions.**

- a. **Can you give me an update on how those are going?**

**Answer:** As part of the Internet Policy Task Force's work, the USPTO and National Telecommunications and Information Administration established the multi-stakeholder forum in March 2014, and have convened regular meetings throughout the rest of the year, alternating between the East and West Coasts. The multi-stakeholder forum has made great progress toward agreement on a statement of "Good, Bad, and Situational Practices" for service providers and rights holders in the sending and processing of Digital Millennium Copyright Act (DMCA) takedown notices. In the year's final public meeting on December 18, 2014, the co-chairs of the forum's working group presented the draft statement, which represents an outcome of intensive meetings and negotiations in a process that was open to participation by all interested stakeholders. A broad range of practices for potential inclusion were considered and discussed over the course of eight months, and this draft contains recommendations on those as to which agreement could be reached. The draft will be considered by the forum's working group and then by the entire forum, if approved. We look forward to seeing a finalized statement soon.

- b. **Have any areas emerged where copyright owners and ISPs agree progress can be made between private parties?**

**Answer:** As noted above, significant progress has been made by the multi-stakeholder forum, which includes a wide range of copyright owners and ISPs as well as consumer and public interest groups, in producing a statement of "Good, Bad and Situational Practices", and the USPTO is hopeful that final agreement will be reached soon. The current draft, available at [http://www.uspto.gov/ip/global/copyrights/Working\\_Group\\_Discussion\\_Draft\\_as\\_Distributed\\_at\\_Sixth\\_Public\\_Meeting\\_with\\_Cover\\_Page.pdf](http://www.uspto.gov/ip/global/copyrights/Working_Group_Discussion_Draft_as_Distributed_at_Sixth_Public_Meeting_with_Cover_Page.pdf), reflects tentative agreement on a number of practices that stakeholders have identified as good and bad practices for copyright owners in sending DMCA takedown notices and for ISPs in processing them. It also sets forth a number of "situational practices" where the recommended approach may vary based on the context. In addition, stakeholders are continuing to discuss the possibility of producing some sample forms that may be used for submission of DMCA takedown notices.

10. **The USPTO plays an active role in advising USTR as it negotiates the critical IP chapters in proposed trade agreements such as TPP and TTIP. Many members of this and other Committees often judge the level of IP protection within such agreements when determining our support. What are your views on the importance of strong copyright protection in trade agreements?**

**Answer:** Strong and high-quality copyright protection in trade agreements promotes the dissemination of creative works, rewards creators, and ultimately increases the supply of rich and diverse content to the public. A balanced and effective copyright system is in the interest of the United States and also our trading partners. This is even more true in today's environment, as the Internet creates new opportunities and challenges by enabling broader and easier access to and uses of copyrighted works.

**Responses to Questions for the Record for  
Michelle K. Lee  
Nominee for Under Secretary of Commerce for Intellectual Property  
and Director of the U.S. Patent and Trademark Office  
Submitted on January 9, 2015**

**Senator Orrin Hatch (R-UT)**

- 1. Define the “technical assistance” that the USPTO may provide to Members of Congress and staff. Please make that definition objective, concrete, and specific. Please provide examples.**

**Answer:** The basic concept behind technical drafting assistance is that a Member of Congress wants to draft a bill on a complex matter, and that he or she knows what he or she wants to accomplish, but wants assistance from the agency to correctly accomplish his or her goal. USPTO’s technical drafting assistance, provided upon request to Members and Congressional staff, may address a broad range of intellectual property issues. This assistance may include identifying case law relevant to the proposed text and providing context for how a court might interpret statutory intent of specific language.

- 2. Yes or no, is it ever proper for the USPTO director or the agency’s staff to actively oppose legislative proposals before Congress?**

**If yes, please provide the basis for their authority to do so and the circumstances under which it is proper. Please provide examples.**

**Answer:** Yes. Sometimes it is appropriate for the USPTO to express its views, consistent with the Administration’s legislative priorities and goals, on how proposed legislation may impact the agency’s operations or the functioning of our intellectual property systems.

If confirmed as Director, I look forward to working with the Congress. I believe that the Administration and leaders of both parties in Congress share a common goal of strengthening our nation’s patent system so that it best incentivizes innovation and a desire to work together to achieve this goal for the benefit of our nation’s innovators.

- 3. Do you have any previous patent litigation experience? If so, please describe that experience in detail.**

**Answer:** Yes. My previous litigation experience is described in detail in the questionnaire submitted to the Judiciary Committee prior to my nomination hearing.

- 4. Yes or no, does the USPTO have subject matter expertise or jurisdiction over legislative proposals to reform pleading standards, discovery, fee-shifting, and recovery of awards?\***  
*\* The above question is not about whether USPTO may provide technical assistance, but about the agency’s jurisdiction. Please respond accordingly.*

**If yes, please describe the basis for that jurisdiction.**

**Answer:** Yes. Pursuant to 35 U.S.C. § 2, the Director of the USPTO is charged with “advis[ing] the President . . . on national and certain international intellectual property issues,” and “advis[ing] Federal department and agencies on matter of intellectual property.” The USPTO historically also



has responded to inquiries from members of Congress regarding USPTO practices and procedures and pending patent and trademark legislation.

The USPTO employs personnel with detailed knowledge and expertise on a wide variety of patent and trademark issues, including patent litigation related matters. In addition, USPTO attorneys defend the Agency in direct appeals from its patentability determinations and, through the Department of Justice, advise the courts on issues raised in IP litigation, including patent and intellectual property issues pending before the Supreme Court. The USPTO personnel are knowledgeable about the particular issues raised in this question. The USPTO personnel also are knowledgeable about USPTO's own proceedings, such as the AIA's new post-issuance patent review trials, and possess in-depth knowledge about many substantive patent law issues, all of which impact district court litigations.

5. **Yes or no, would shifting to a district court-style claim construction from the broadest reasonable interpretation at the USPTO's Patent Trial & Appeal Board (PTAB) effectively combat patent trolls?**

**If yes, explain the basis for that conclusion.**

**Answer:** The *Leahy-Smith America Invents Act* (AIA) grants the Director of the USPTO broad authority to "prescribe regulations . . . establishing and governing inter partes review." 35 U.S.C. § 316(a)(4); *see also id.* § 326(a)(4) (post-grant review). Pursuant to that authority, the Director adopted a regulation providing that in an *inter partes* or post-grant review, "[a] claim in an unexpired patent shall be given its broadest reasonable construction in light of the specification of the patent in which it appears." 37 C.F.R. § 42.200(b). *See Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents*, 77 Fed. Reg. 48,680, 48,688 (Aug. 14, 2012). The USPTO has employed this standard of claim construction during initial examination and in the various post-issuance mechanisms that Congress has established to reconsider granted patents for at least a century. In part, the USPTO decided to use a broadest reasonable interpretation claim construction standard during *inter partes* and post-grant reviews because the patent owner has an opportunity to amend its claims in these proceedings. *See* 35 U.S.C. § 316(d)(1)(B); *id.* § 316(a)(9); 37 C.F.R. § 42.121.

The AIA's new post-issuance proceedings, which are conducted before the Patent Trial and Appeal Board (PTAB), have proven increasingly popular (based upon number of petitions filed) with patent litigants. After about a year and a half experience with these new proceedings, the USPTO hosted a number of roundtables nationwide. The Agency shared with the public best practices before the PTAB and received input from the public on ways to strengthen the new AIA proceedings. The USPTO heard from some that the proceedings provide an important check on patent quality, while it heard from others on ways to further strengthen the proceedings.

If confirmed as Director, I look forward to listening carefully and working closely with all stakeholders to ensure these proceedings are fair and effective as intended by the AIA.

6. **Are PTAB judges made aware that patent applications before it are subject to the Sensitive Application Warning System (SAWS) program?**

**Answer:** There is no formal or official process to make PTAB judges aware that patent applications involved in appeals to which they are assigned are subject to the Sensitive Application Warning System.

**If so, do PTAB judges treat such patent applications differently than patent applications not in the SAWS program? Please provide available statistics.**

**Answer:** PTAB judges do not handle appeals differently based on whether the appeals involve patent applications in the SAWS program.

**7. How does an applicant appeal the placement of a patent application into the SAWS program?**

**Answer:** As with applications that are subject to other forms of internal quality reviews, there is no process to appeal the placement of a patent application into the SAWS program. An application flagged for such a quality assurance check undergoes the same types of examination procedures as any other patent application, and is held to the same substantive patentability standards.

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Asian/Pacific Islander American Chamber of Commerce & Entrepreneurship  
2025 M Street NW, Suite 610, Washington D.C. 20036  
ph. (202) 715-0787

December 1, 2014

The Honorable Patrick J. Leahy  
Chairman  
United States Senate  
Committee on the Judiciary  
473 Russell Senate Office Building  
Washington, DC 20510

The Honorable Chuck Grassley  
Ranking Member  
United States Senate  
Committee on the Judiciary  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

As the President & CEO of the Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship (ACE), I am writing this letter to express my strong support for the nomination of Ms. Michelle K. Lee for the office of Under Secretary of Intellectual Property and Director of the United States Patent and Trademark Office at the U.S. Department of Commerce. Our organization addresses the needs and interests of business owners, entrepreneurs and corporate leaders of Asian American, Native Hawaiian and Pacific Islander heritage, and we cannot think of a more qualified and dedicated individual than Ms. Lee.

Asian Americans and Pacific Islanders (AAPIs) are often at the forefront in developing new products and services here in the U.S. Today there are more than 1.6 million businesses owned and operated by AAPIs in this country, fueling innovation, job creation and economic development.

Having spent 15+ years in the Technology Sector in a company that boasted the highest number of patents, I understand firsthand, the importance of and the qualification that is required to succeed in the role of the Under Secretary of Intellectual Property and

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One Voice Representing the Asian American, Native Hawaiian and Pacific Islander  
Business Community Across the Country

Hon. Patrick J. Leahy  
Hon. Chuck Grassley  
Page 2

Director of United States Patent and Trademark Office at the U.S. Department of  
Commerce. Ms. Lee has the rare combination of the knowledge, expertise, experience  
and the drive to succeed in this role and advance our country's economic power.

Recently, Ms. Lee captivated the audience of business leaders from more than 30  
corporations and 10 nonprofit associations with a talk in which she emphasized the  
importance of education, competition and the need for business ingenuity to stimulate  
growth, economic opportunity and intellectual curiosity. Her experience and  
accomplishment in the private sector - Google's first Deputy General Counsel and Head  
of Patents and Patents Strategy - and her educational credentials from the Massachusetts  
Institute of Technology and Stanford Law School have instilled confidence with this  
audienc and the small-business sector that she is the perfect person for this position.

We urge the Judiciary Committee to advance her nomination.

Thank you for your interest and anticipated support for Ms. Michelle Lee.

Most sincerely,

A handwritten signature in black ink, appearing to read 'Sach Takayasu', written over a horizontal line.

Sach Takayasu  
President & CEO  
Asian/Pacific Islander American Chamber of Commerce & Entrepreneurship

1151

RECEIVED DEC 11 2014



December 1, 2014

The Honorable Patrick J. Leahy  
Chairman  
United States Senate  
Committee on the Judiciary  
473 Russell Senate Office Building  
Washington, DC 20510

The Honorable Chuck Grassley  
Ranking Member  
United States Senate  
Committee on the Judiciary  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

As the co-founder and immediate-past chairman of the Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship (ACE), I wish to express my strong support for the nomination of Ms. Michelle K. Lee for the office of Under Secretary of Intellectual Property and Director of the United States Patent and Trademark Office at the U.S. Department of Commerce. Our organization addresses the needs and interests of business owners, entrepreneurs and corporate leaders of Asian American, Native Hawaiian and Pacific Islander heritage, and we cannot think of a more qualified and dedicated individual than Ms. Lee.

Asian Americans and Pacific Islanders (AAPIs) are often at the forefront in developing new products and services here in the U.S. Today there are more than 1.6 million businesses owned and operated by AAPIs in this country, fueling innovation, job creation and economic development. We need someone from the business sector who understands that America can only advance as a global economic power if it has someone with the knowledge, expertise and drive to advance our country's economic prowess. Ms. Lee demonstrates each of these characteristics and so much more.

Not long ago, Ms. Lee addressed business leaders from more than 30 corporations and 10 nonprofit associations. She emphasized the importance of education, competition and the need for business ingenuity to stimulate growth, economic opportunity and intellectual curiosity. Her experience in the private sector and her educational credentials from the

Hon. Patrick J. Leahy  
Hon. Chuck Grassley  
Page 2

Massachusetts Institute of Technology and Stanford University have instilled confidence from the small-business sector that she is the perfect person for this position.

We urge the Judiciary Committee to advance her nomination.

Thank you for your interest and anticipated support for Ms. Michelle Lee.

Most sincerely,

A handwritten signature in black ink, appearing to read "Bill Imada", with a long horizontal flourish extending to the right.

Bill Imada  
Immediate-Past Chairman  
Asian/Pacific Islander American Chamber of Commerce & Entrepreneurship

National Asian Pacific American Bar Association



December 1, 2014

The Honorable Patrick J. Leahy  
Chairman, Committee on the Judiciary  
United States Senate  
473 Russell Senate Office Building  
Washington, DC 20510

The Honorable Chuck Grassley  
Ranking Member, Committee on the Judiciary  
United States Senate  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

We, the undersigned and listed, are the General Counsels and Chief Legal Officers of American companies representing a diverse cross section of industries. We are all of Asian origin and members of the National Asian Pacific American Bar Association (NAPABA).

Some of our companies are predominantly users of technology and intellectual property ("IP"). Others sell and license IP. Some of us represent small companies, while others work for household names. However, we are united in the belief that innovation is critical to our collective futures, can provide sustainable and high quality employment for Americans and create enormous value for our shareholders. Accordingly, we write to strongly endorse the nomination of Michelle K. Lee for the office of Under Secretary for Intellectual Property and Director of the United States Patent and Trademark Office ("USPTO"), Department of Commerce.

Professionally, and in many cases, personally, we have come to know Ms. Lee and her work well. Her credentials and accomplishments, which are detailed in the attached Fact Sheet, should leave little doubt that she is both thoroughly and uniquely qualified for this critical post. Prior to pursuing a career in law, she participated in cutting edge research as a technologist at both Hewlett-Packard and in the famed Artificial Intelligence Laboratory at MIT. Ms. Lee is a star in the legal profession, and her appointment would serve to provide a role model for and inspire future generations of women and minority lawyers and technologists. It is hard to imagine anyone who would objectively be more qualified, either in terms of intelligence or integrity, as the Director of the USPTO.

We urge the Committee to expeditiously advance Ms. Lee's nomination as the Director of the USPTO. In a fast-moving and competitive global economy, our respective organizations, as well as the nation, would be truly well served by her appointment.

Although we list our affiliations below, all of us are signing or have agreed to participate in this letter in our personal capacities.

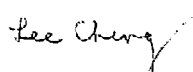
Respectfully,



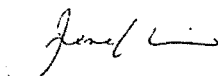
**Melvin N.A. Avanzado**  
General Counsel  
Fortune Enterprise Holdings, Inc.  
(Seafood City Supermarkets)



**Anne Lee Benedict**  
Chief Legal Officer  
Summit Materials



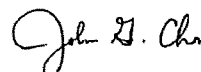
**Lee C. Cheng**  
Chief Legal Officer, SVP-  
Corporate Development &  
Corporate Secretary  
Newegg Inc.



**Irene Chiu**  
VP & General Counsel  
GCA Therapeutics Ltd.



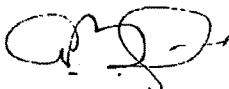
**Arthur Chong**  
Executive VP, General Counsel  
& Secretary  
Broadcom Corporation



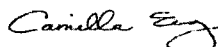
**John G. Chou**  
Executive VP & General Counsel  
AmerisourceBergen Corporation



**Vernon G. Chu**  
General Counsel  
BBC Worldwide Americas, Inc.



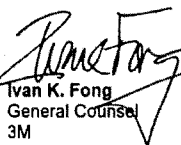
**A.B. Cruz III**  
Executive VP, General Counsel,  
Corporate Secretary & Chief  
Compliance Officer  
Emergent BioSolutions



**Camilla Eng**  
General Counsel  
JM Eagle



**Rudy Figueroa**  
VP Administration, HR & Legal,  
General Counsel & Corporate  
Secretary  
Mitsui Rail Capital LLC



**Ivan K. Fong**  
General Counsel  
3M



**Jennifer Choe Groves**  
General Counsel  
Phoenix Financial Holdings, Inc.

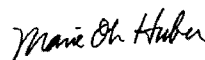




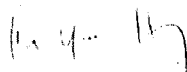
**Arlene Hornilla**  
General Counsel  
Hysitron, Inc.



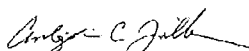
**Anita Y. Hsu**  
VP & General Counsel  
MBK Real Estate Companies



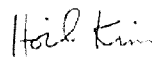
**Marie Oh Huber**  
Senior VP, General Counsel &  
Secretary  
Agilent Technologies, Inc.



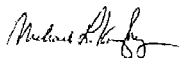
**Ki Yun Hwang**  
CEO & General Counsel  
Black Letter Discovery



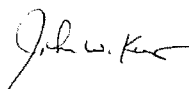
**Christopher C. Javillonar**  
General Counsel  
Permobil, Inc.



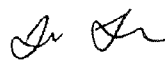
**Hoil Kim**  
VP, Chief Administrative Officer,  
General Counsel & Secretary  
GT Advanced Technologies, Inc.



**Michael L. Korniczky**  
Executive VP & General Counsel  
Clondalkin Group



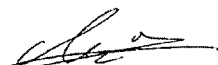
**John W. Kuo**  
Senior VP, General Counsel &  
Corporate Secretary  
Varian Medical Systems



**Jannie K. Lau**  
Executive VP, General Counsel  
& Secretary  
InterDigital, Inc.



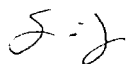
**Parkin Lee**  
Senior VP & Chief Legal Officer  
The Rockefeller Group



**Iris Leong**  
VP & Legal Counsel  
Tawa Supermarket, Inc.



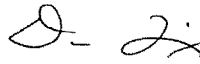
**Sandra Leung**  
General Counsel & Corporate  
Secretary  
Bristol-Myers Squibb Company




**Simon Y. Leung**  
Senior VP, General Counsel &  
Corporate Secretary  
SYNNEX Corporation



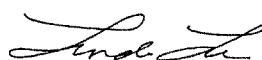
**Diana C. Liu**  
Principal & General Counsel  
Artemis Real Estate Partners  
LLC



**Don Liu**  
Senior VP, General Counsel &  
Secretary  
Xerox Corporation



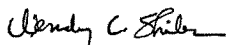
**Curtis Lu**  
General Counsel  
LightSquared



**Linda Lu**  
VP & Chief Litigation Officer  
Nationwide



**Hyun Park**  
Senior VP & General Counsel  
PG&E Corporation



**Wendy Shiba**  
Retired Executive VP, General  
Counsel & Secretary  
KB Home



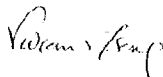
**Ellen J. Shin**  
General Counsel & Secretary  
Prospect Medical Holdings, Inc.



**Paul C. Tang**  
Executive VP & General Counsel  
Burlington Stores, Inc.



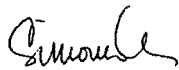
**Alan K. Tse**  
Executive VP & General Counsel  
Churchill Downs Incorporated



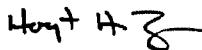
**Vivian Tseng**  
VP & General Counsel  
Welch Foods, Inc.



**Michael C. Wu**  
Senior VP, General Counsel &  
Secretary  
Carter's, Inc.



**Simone Wu**  
Senior VP, General Counsel &  
Secretary  
Choice Hotels International, Inc.



**Hoyt Zia**  
Senior VP, General Counsel &  
Corporate Secretary  
Hawaiian Airlines, Inc.

**Lawrence P. Tu**  
Senior EVP & Chief Legal Officer  
CBS Corporation



December 5, 2014

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
Washington, DC 20510

The Honorable Charles E. Grassley  
Ranking Member  
Committee on the Judiciary  
Washington, DC 20510

The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Mitch McConnell  
Republican Leader  
United States Senate  
Washington, DC 20510

Dear Chairman Leahy, Ranking Member Grassley, Majority Leader Reid, and Republican Leader McConnell:

On behalf of our nearly 200 corporate members and more than 35,000 individual app developer members, I write in support of President Obama's nomination of Michelle K. Lee to serve as Director of the U.S. Patent and Trademark Office. The Application Developers Alliance is the preeminent association supporting developers as creators, innovators, and entrepreneurs by promoting a robust ecosystem for continued innovation and economic growth.

Lee's background as an intellectual property attorney in the private sector as well as her tenure with the USPTO makes her well suited for this position. While serving the USPTO and during her tenure as Interim Director, Lee has demonstrated exceptional leadership. By supporting initiatives to improve patent quality and the post-grant review process, Lee has shown she can lead and manage the USPTO through a critical time.

App developers, startups, and small businesses are at the forefront of innovation, but too many are the victims of patent trolls who do not create or innovate. As trolls continue to harm small businesses and drain millions of dollars from the economy, the need for comprehensive patent reform is stronger than ever. On this issue, Lee has demonstrated that she is thoughtful and fair. She understands the balance needed to protect truly novel ideas while protecting innovators from entities that abuse the system. We expect that she will be integral to protecting startups and app developers.

We urge the Senate to quickly confirm her nomination.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Potter", is written over a light blue horizontal line.

Jon Potter  
President  
Application Developers Alliance



The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

October 28, 2014

Dear Chairman Leahy and Ranking Member Grassley:

I write on behalf of the membership of Engine Advocacy in strong support of President Obama's nomination of Michelle K. Lee to be the next Director of the U.S. Patent and Trademark Office.

Engine represents more 500 startups and small businesses across the country. Because startups are key drivers of innovation, our members have a keen interest in ensuring that the IP system continues to promote innovation by improving patent quality while ensuring a level playing field for all inventors. As the President's principal advisor on intellectual property policy, the Director of the USPTO plays a central role in the development and implementation of these policies and in ensuring the efficient operation of the Agency. We strongly support Michelle Lee's nomination to this critical post. As a lawyer in private practice and in public service, including her time overseeing the opening of the Silicon Valley Patent Office, Michelle has proven time and again she is up to the challenge.

We believe that Michelle has demonstrated strong leadership since assuming the position of Deputy Director earlier this year, and that she has advanced a balanced and thoughtful view of IP policy. We particularly commend the significant steps she has taken to improve patent quality, and have been encouraged to see outreach from the Office to the startup and small business community, including providing useful resources such as those found at: <http://www.uspto.gov/patents/litigation/index.jsp>. We also applaud efforts to install the Office's first female Director.

We urge the Committee to report this nomination and the full Senate for speedy consideration so that the USPTO can have the effective and steady leadership that it needs to perform its critical mission.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie P. Samuels".

Julie P. Samuels  
Executive Director, Engine

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655 Third Avenue, 10th Floor  
New York, NY 10017-5646, USA  
t: +1 212 642-1700 | f: +1 212 769-7796  
inta.org

November 5, 2014

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
U.S. Senate  
Washington, D.C. 20510

The Honorable Chuck Grassley  
Ranking Member  
Committee on the Judiciary  
U.S. Senate  
Washington, D.C. 20510

Dear Mr. Chairman and Ranking Member Grassley:

INTA wishes to express our support for the nomination of Michelle K. Lee to be the next Under Secretary for Intellectual Property and Director of the United States Patent and Trademark Office, Department of Commerce. We applaud the President's decision to nominate Ms. Lee given her impressive qualifications and in-depth experience which is necessary for the USPTO to advance its strategic objectives of protecting intellectual property and promoting innovation.

Ms. Lee's experience and professional career demonstrate that she has a deep understanding of intellectual property law and with over two decades of experience she would make an outstanding leader in promoting and protecting the nation's intellectual property. In addition, Ms. Lee brings decades of legal, technical and business experience as a patent lawyer combined with extensive experience with the legal and management issues that arise at the USPTO. As the Deputy Director of the USPTO, she encouraged progress and technological advancement while promoting both business and consumer interests. Ms. Lee's vast experience in intellectual property, her reputation for hard work and her demonstrated abilities as the current Deputy Under Secretary of Commerce and Deputy Director of the U.S. Patent and Trademark Office, makes her the ideal candidate to advance the USPTO's core mission of serving the public in the most efficient and cost-effective manner possible. We are convinced that Ms. Lee will continue to make the USPTO even more efficient while also improving the quality of trademark examination and performance goals.

The USPTO is in immediate need of permanent leadership, and we thus urge the Committee to take action on the confirmation process as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Mei-lan Stark", written in a cursive style.

Mei-lan Stark  
President

PowerfulNetwork PowerfulBrands.

November 14, 2014

By Hand and Email

Hon. Patrick J. Leahy, Chairman  
United States Senate  
Committee on the Judiciary  
473 Russell Senate Office Building  
Washington, DC 20510

Hon. Chuck Grassley, Ranking Member  
United States Senate  
Committee on the Judiciary  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

We write to express our support for the nomination of Michelle K. Lee for the office of Under Secretary for Intellectual Property and Director of the United States Patent and Trademark Office, Department of Commerce. We are a diverse group of lawyers, academics, and executives who work in the fields of patents and trademarks, and we represent a broad spectrum of American innovators. Each of us has worked directly with Ms. Lee or is familiar with her work, and we believe she will be a superb Director of the U.S. Patent and Trademark Office.

The jobs, goods, and services that make up our economy depend on robust innovations that are protected by patents and trademarks. Protection of innovation, enshrined in the Constitution, begins at the U.S. Patent and Trademark Office. The Director of the USPTO is the most important and visible protector of our nation's commitment to innovation. Ms. Lee's career and dedication to public service reflect a lifelong commitment to, and an exceptional ability to preserve and bolster, the promotion of innovation.

Ms. Lee has been a patent lawyer for 20 years and has extensive experience with the legal and management issues that arise at the USPTO. She currently serves as the Deputy Under Secretary and Deputy Director of the USPTO, a position she has held since January of 2014. She successfully opened the USPTO's new Silicon Valley Office and served as its Director from 2012 to 2013. Beginning in 2011, Ms. Lee served as a Member of the USPTO's Patent Public Advisory Committee.

Ms. Lee held significant management responsibility prior to her government service. From 2003 to 2012, Ms. Lee was the Deputy General Counsel and Head of Patents and Patent Strategy at Google Inc., where she built the team and program from the ground up. She was a Partner and an Associate at Fenwick & West LLP from 1996 to 2003 and an Associate at Kecker & Van Nest LLP from 1994 to 1996. Ms. Lee held two prestigious judicial clerkships, for Judge

Chairman Leahy and Ranking Member Grassley  
November 14, 2014  
Page 2

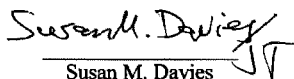
Vaughn R. Walker in the U.S. District Court for the Northern District of California, and for Judge Paul R. Michel of the U.S. Court of Appeals for the Federal Circuit, which is the court responsible for reviewing actions by the USPTO. Ms. Lee received a B.S. in electrical engineering from the Massachusetts Institute of Technology where she graduated at the top of her class, an M.S. in computer science also from MIT, and a J.D. from Stanford Law School where she served on the law review. Before law school, she worked as a computer scientist at Hewlett-Packard Research Laboratories and the MIT Artificial Intelligence Laboratory.

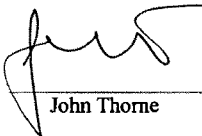
Ms. Lee co-founded a non-profit organization, the "ChIPs," which is dedicated to supporting and promoting the advancement, development, and retention of women practicing IP law or involved in innovation. The ChIPs has grown from its start in Silicon Valley to become a national women's organization that includes and inspires women in all the fields involving innovation including pharmaceutical science, materials science, biotech, and medical devices. Upon confirmation, Ms. Lee will be the first woman and the first ethnic minority to head the USPTO.

In each of her prior positions, Ms. Lee has consistently displayed honesty, wide and deep legal knowledge, strong management skills, unfailing civility in dealing with everyone, the willingness to listen to all perspectives and the ability to collaborate and work with all sides of an issue, and a commitment to promoting the progress of science and the useful arts. She is a model of the talents and manner that our legal system, at its best, seeks to foster and spread.

We urge the Committee to hold a hearing promptly and to approve Ms. Lee's nomination to this important post.

Respectfully,

  
Susan M. Davies

  
John Thorne

  
Mallun Yen

---

\* Although we list our affiliations below, all of us are signing this letter in our personal capacities.

Chairman Leahy and Ranking Member Grassley  
November 14, 2014  
Page 3

Sally M. Abel, Fenwick & West LLP  
Seungho Ahn, Ph.D., Executive VP & Chief IP Officer, Samsung Electronics Co., Ltd.  
Robert A. Armitage, Consultant, IP Strategy & Policy  
John C. Baum, Owen, Wickersham & Erickson, P.C.  
Marta Beckwith, VP of Legal, Aruba Network  
Ron Bell, General Counsel, Yahoo! Inc.  
Kiran Belur, Head of Trademarks & Copyrights, Salesforce, Inc.  
Dawn-Marie Bey, Bey & Cotropia PLLC  
Rebecca Beynon, Kellogg, Huber, Hansen, Todd, Evans & Figel P.L.L.C.  
Ambassador (ret.) Jeffrey L. Bleich, Munger Tolles & Olson LLP  
Jeffrey B. Bove, Novak Druce Connolly Bove & Quigg LLP, Board of Governors of FCBA  
Karen Boyd, Turner Boyd LLP  
Jordan Breslow, General Counsel, Etsy, Inc.  
Susan A. Brye, Director Corporate Counsel, Starbucks Coffee Company  
Cynthia Bright, VP & Assoc. General Counsel, IP Litigation & Public Policy, Hewlett Packard Co.  
James E. Brookshire, Executive Director, Federal Circuit Bar Association  
Daniel J. Burke, SVP and General Counsel, Pacific Dental Services LLC  
Michael J. Callahan, General Counsel, LinkedIn Corp.  
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Mark Chandler, General Counsel, Cisco Systems, Inc.  
I. Neel Chatterjee, Orrick, Herrington & Sutcliffe  
Javade Chaudhri, Jones Day  
Lee C. Cheng, Chief Legal Officer, Corporate Secretary, and SVP, Newegg Inc.  
Joseph Chernesky, SVP, IP & Innovation, Kudelski Group  
Laura Ching, Co-Founder, Tiny Prints  
Arthur Chong, Executive VP & General Counsel, Broadcom Corp.  
Vicky Chou, SVP of Global Management and General Counsel, OmniVision Technologies, Inc.  
Thomas Chow, Esq., General Counsel, Chief Compliance Officer & Secretary, Exponential Interactive, Inc.  
Timothy Chu, VP, General Counsel and Secretary, Harmonic Inc.  
David Y. Chun, CEO and Founder, Equilar, Inc.  
Jamie E. Chung, SVP and General Counsel, Walmart Global eCommerce  
Ruffin Cordell, Fish & Richardson P.C.  
William J. Coughlin, President & CEO, Ford Global Technologies LLC and Assistant General Counsel, Ford Motor Company  
Kathi A. Cover, VP IP, iBiquity Digital Corporation  
Patrick J. Coyne, Finnegan, Henderson, Farabow, Garrett & Dunner, LLP  
T. Andrew Culbert, Associate General Counsel, Microsoft Corp.  
Michael Cunningham, Executive VP & General Counsel, Red Hat Inc.  
Dorian Daley, SVP, General Counsel and Secretary, Oracle Corporation  
Susan M. Davies, Kirkland & Ellis LLP  
Alyssa Harvey Dawson, VP – Global IP and Licensing, Harman International Industries  
Brackett B. Denniston III, SVP, Secretary, and General Counsel, General Electric Company



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Page 4

John M. Desmarais, Desmarais LLP and Chairman, Round Rock Research LLC  
Peter Detkin, Founder & Vice-Chairman, Intellectual Ventures Management, LLC  
Anthony L. DiBartolomeo, SVP and Chief IP Counsel, SAP  
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Donald R. Dunner, Finnegan, Henderson, Farabow, Garrett & Dunner LLP  
Lisa A. Dunner, Chair, ABA Section of Intellectual Property Law and Dunner Law P.L.L.C.  
Tracy-Gene G. Durkin, Sterne, Kessler, Goldstein & Fox  
Brian E. Ferguson, Weil, Gotshal & Manges LLP  
Diane C. Ferguson, Deputy General Counsel Intellectual Property, VCE Company, LLC  
Nair Flores, Patent Counsel, Dropbox  
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Louis J. Foreman, CEO, Edison Nation  
Harrison "Buzz" Frahn, Simpson Thacher & Bartlett LLP  
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Paul Goldstein, Stanford Law School  
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John Griffith, Weaver Austin Villeneuve & Sampson LLP  
Josh Griswold, Fish & Richardson P.C.  
Carl Guardino, President & CEO, Silicon Valley Leadership Group  
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Krish Gupta, SVP & Deputy General Counsel, EMC Corporation  
Henry B. Gutman, Simpson Thacher & Bartlett LLP  
Ava Hahn, General Counsel, Aruba Networks, Inc.  
Kevin R. Hamel, VP and Head of Global Litigation, SAP  
David Hayes, Fenwick & West LLP  
Michael Headley, Fish & Richardson P.C.  
Charles Hieken, Fish & Richardson P.C.  
Brian Hinman, Chief IP Officer, Philips IP & Standards  
Timothy R. Holbrook, Associate Dean and Professor of Law, Emory University School of Law  
Ramsey Homsany, General Counsel, Dropbox  
David Hricik, Mercer University School of Law  
Christina Hsiang, General Counsel, Lit Motors  
Jerry C. Huang, VP – Legal Affairs, Vizio  
Marie Huber, SVP, General Counsel and Secretary, Agilent Technologies, Inc.  
Thomas G. Hungar, Gibson, Dunn & Crutcher LLP  
Mary Huser, VP & Deputy General Counsel, BlackBerry Limited  
David Hyman, General Counsel, Netflix, Inc.  
Julie Jacobs, Executive VP, General Counsel & Corporate Secretary, AOL Corp.

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Kevin Jakel, General Counsel, Unified Patents Inc.  
Phillip Johnson, SVP Intellectual Property Policy and Strategy, Johnson & Johnson  
Daryl L. Joseffer, King & Spalding  
Staci L. Julie, VP of Global IP, Teva Pharmaceuticals  
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Michael Kelly, Ingrassia Fisher & Lorenz, P.C.  
Roger Kennedy, Associate General Counsel Patents, The Walt Disney Company  
Andrew Kim, SVP, Corporate Development and General Counsel, Netgear, Inc.  
Margaret A. Kivinski, General Counsel, Galena Biopharma, Inc.  
Kelly M. Klaus, Munger, Tolles & Olson LLP  
Bryan Ko, General Counsel, Fuhu, Inc.  
Kenneth S. Korca, VP & Head of US IP Center, Samsung Electronics Co., Ltd.  
Noreen Krall, VP and Chief Litigation Counsel, Apple Inc.  
Pamela B. Krupka, Krupka Law Group, PC  
Robert G. Krupka, Krupka Law Group, PC  
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Eleanor Lacey, VP, General Counsel and Secretary, SurveyMonkey Inc.  
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Renée T. Lawson, VP & Deputy General Counsel, Zynga  
Betsy Wang Lee, Orrick, Herrington & Sutcliffe LLP  
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Mark A. Lemley, Stanford Law School  
Iris Leong, Esq., VP & Legal Counsel, 99 Ranch Market  
Lori Lesser, Simpson Thacher & Bartlett LLP  
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Justin Liu, Senior Director, IP, Xilinx Inc.  
Mark Liu, General Counsel, Meru Networks  
Gary Loeb, General Counsel, Counsyl, Inc.  
Brian J. Love, Assistant Professor, Santa Clara University School of Law  
Douglas Luftman, VP, Innovation Services & Chief Intellectual Property Counsel, NetApp, Inc.  
Kathi Lutton, Fish & Richardson P.C.  
Richard J. "Chip" Lutton, Jr., Legal Director and Lead Attorney, Nest Labs  
Lisa Mack, Senior IP Counsel, Harman International Industries, Inc.  
James E. Malackowski, Chairman & CEO, Ocean Tomo, LLC  
David Marcus, VP, Deputy General Counsel, Chief Patent Counsel, Comcast Cable Communications  
Michael E. Marion, VP, Philips Intellectual Property and Standards  
Julie Mar-Spinola, VP, Legal Operations, Finjan  
Matthew Marquis, VP of IP, VMware, Inc.

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November 14, 2014  
Page 6

Barbara C. McCurdy, Finnegan, Henderson, Farabow, Garrett & Dunner, LLP  
Daniel P. McCurdy, SVP, RPX Corporation  
Lisa McFall, Deputy General Counsel, Workday, Inc.  
Michael J. McKeon, Principal, Fish & Richardson P.C.  
John T. McNelis, Fenwick & West LLP  
Sonal N. Mehta, Weil, Gotshal & Manges LLP  
Paul A. Mendonsa, Blakely Sokoloff Taylor & Zafman LLP  
Dion Messer, General Counsel – Intellectual Property, Limelight Networks, Inc.  
Peter Menell, Koret Professor of Law and Director of Berkeley Center for Law & Technology,  
University of California at Berkeley School of Law  
Michael J. Meurer, Professor of Law, Boston University School of Law  
Paul R. Michel, Chief Judge (Ret.), U.S. Court of Appeals for the Federal Circuit  
Randal S. Milch, EVP, Public Policy, and General Counsel, Verizon Communications Inc.  
Charles B. Molster, Winston & Strawn LLP  
Gary Morris, Morris & Kamlay LLP  
Fiona M. Scott Morton, Theodore Nierenberg Professor of Economics, Yale School of  
Management  
Todd Noah, Dergosits & Noah LLP  
Laura Norris, Assistant Professor and Director, Santa Clara U. Entrepreneurs' Law Clinic  
Burk Norton, EVP & Chief Legal Officer, Salesforce, Inc.  
Raymond L. Ocampo Jr., SVP, General Counsel & Secretary (Ret.), Oracle Corp., Co-Founder &  
Executive Director (Ret.), Berkeley Center for Law & Technology  
Joseph Olsen, Director of IP, Salesforce, Inc.  
Sam O'Rourke, VP & Deputy General Counsel, Facebook, Inc.  
Brian Pandya, Wiley Rein LLP  
Aaron M. Panner, Kellogg, Huber, Hansen, Todd, Evans & Figel P.L.L.C.  
Rajiv P. Patel, Fenwick & West LLP  
Mark R. Patterson, Professor of Law, Fordham University School of Law  
Jonathan Penn, IP Consultant  
Anthony Peterman, Executive Director and Chief Patent Counsel, Dell Inc.  
Carter G. Phillips, Sidley & Austin LLP  
Trâm Phi, Senior Vice President and General Counsel, Imperva, Inc.  
Andrew J. Pincus, Mayer Brown LLP  
Joseph M. Potenza, Banner & Witcoff, Ltd.  
Matthew D. Powers, Tensegrity Law Group LLP  
Arti Rai, Elvin R. Latty Professor at Duke Law School and Faculty Co-Director of the Duke Law  
Center for Innovation Policy  
Dana Rao, VP IP and Litigation, Adobe Systems Inc.  
Paul H. Roeder, SVP and Deputy General Counsel, Litigation, Hewlett Packard Company  
Donald J. Rosenberg, Executive VP, GC & Corporate Secretary, Qualcomm Incorporated  
Jamie Rossi, Zilka-Kotab, P.C.  
J.C. Rozendaal, Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C.  
Mona Sabet, President, Viblio  
Eve Saltman, Deputy General Counsel, GoPro, Inc.  
Pamela Samuelson, Professor of Law, Berkeley Law School

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Melissa Scanlan, Senior Director Litigation & Antitrust, T-Mobile US, Inc.  
Steven Schaefer, Fish & Richardson P.C.  
Frank Scherkenbach, Fish & Richardson P.C.  
Marcus E. Sernel, Kirkland & Ellis LLP  
Bruce Sewell, SVP and General Counsel, Apple Inc.  
Carl Shapiro, Transamerica Professor of Business Strategy, Haas School of Business, University of California at Berkeley  
David Simon, SVP Intellectual Property, Salesforce, Inc.  
Margo M. Smith, SVP & General Counsel, Marketo, Inc.  
Erich Spangenberg, Chairman, IP Navigation Group, LLC  
Garland E. Stephens, Weil, Gotshal & Manges LLP  
Robert Greene Sterne, Sterne, Kessler, Goldstein & Fox  
Mary Stich, VP & Associate General Counsel, Rackspace Hosting, Inc.  
Colin Stretch, General Counsel, Facebook, Inc.  
Silvija A. Strikis, Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C.  
Kathleen M. Sullivan, Quinn Emanuel Urquhart & Sullivan LLP  
Mark Takahashi, Ingrassia Fisher & Lorenz, P.C.  
Toshiko Takenaka, Hunter Simpson Professor of Technology Law  
Jeffrey M. Telep, King & Spalding  
John Thorne, Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C.  
Robert H. Tiller, VP and Assistant General Counsel, IP, Red Hat, Inc.  
Peter C. Toto, SVP, IP, Sony Corporation of America  
Hans Troesch, Fish & Richardson P.C.  
Saria Tseng, VP of Strategic Development, General Counsel, Secretary, Monolithic Power Systems Inc.  
Jamie D. Underwood, Alston & Bird LLP  
Bart Volkmer, Legal Counsel, Dropbox, Inc.  
Helgi C. Walker, Gibson Dunn & Crutcher LLP  
Robert Walls, Executive VP and General Counsel, iHeartMedia, Inc.  
Susan Walvius, Co-Founder, Co-CEO, SHEEX Inc.  
Emily Ward, VP and Deputy General Counsel, eBay Inc.  
Amy Weaver, SVP and General Counsel, Salesforce, Inc.  
Philip J. Weiser, Dean, University of Colorado Law School  
Danielle Williams, Fish & Richardson P.C.  
Jason W. Wolff, Fish & Richardson P.C.  
Christopher J. Wright, Harris, Wiltshire & Grannis LLP  
Michael C. Wu, SVP, General Counsel and Secretary, Carter's Inc.  
Jennifer B. Wuamett, SVP & General Counsel, Freescale Semiconductor, Inc.  
Michael Yang, VP, General Counsel and Corporate Secretary, Proofpoint, Inc.  
Roberta Yang, General Counsel, Rock-It Cargo USA LLC  
Emerald Yeh, Chair, Asian Pacific Fund Board  
Mallun Yen, Executive Vice President, RPX Corporation  
Ruby A. Zefo, VP Legal & Corporate Affairs, Associate General Counsel, Intel Corporation



December 1, 2014

The Honorable Patrick J. Leahy  
Chairman  
United States Senate  
Committee on the Judiciary  
473 Russell Senate Office Building  
Washington, DC 20510

The Honorable Chuck Grassley  
Ranking Member  
United States Senate  
Committee on the Judiciary  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

As the co-founder and immediate-past chairman of the Asian/Pacific Islander American Chamber of Commerce and Entrepreneurship (ACE), I wish to express my strong support for the nomination of Ms. Michelle K. Lee for the office of Under Secretary of Intellectual Property and Director of the United States Patent and Trademark Office at the U.S. Department of Commerce. Our organization addresses the needs and interests of business owners, entrepreneurs and corporate leaders of Asian American, Native Hawaiian and Pacific Islander heritage, and we cannot think of a more qualified and dedicated individual than Ms. Lee.

Asian Americans and Pacific Islanders (AAPIs) are often at the forefront in developing new products and services here in the U.S. Today there are more than 1.6 million businesses owned and operated by AAPIs in this country, fueling innovation, job creation and economic development. We need someone from the business sector who understands that America can only advance as a global economic power if it has someone with the knowledge, expertise and drive to advance our country's economic prowess. Ms. Lee demonstrates each of these characteristics and so much more.

Not long ago, Ms. Lee addressed business leaders from more than 30 corporations and 10 nonprofit associations. She emphasized the importance of education, competition and the need for business ingenuity to stimulate growth, economic opportunity and intellectual curiosity. Her experience in the private sector and her educational credentials from the

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Hon. Patrick J. Leahy  
Hon. Chuck Grassley  
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Massachusetts Institute of Technology and Stanford University have instilled confidence from the small-business sector that she is the perfect person for this position.

We urge the Judiciary Committee to advance her nomination.

Thank you for your interest and anticipated support for Ms. Michelle Lee.

Most sincerely,

A handwritten signature in black ink, appearing to read 'Bill Imada', with a long horizontal flourish extending to the right.

Bill Imada  
Immediate-Past Chairman  
Asian/Pacific Islander American Chamber of Commerce & Entrepreneurship

# IACC

INTERNATIONAL ANTI-COUNTERFEITING COALITION

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1730 M Street NW • Suite 1020 • Washington, DC 20036 • 202-223-6667 • [iacc@iacc.org](mailto:iacc@iacc.org)

The Honorable Chuck Grassley  
Chairman, Committee on the Judiciary  
United States Senate  
Washington, DC 20510

The Honorable Patrick Leahy  
Ranking Member, Committee on the Judiciary  
United States Senate  
Washington, DC 20510

January 8, 2015

Dear Chairman Grassley and Ranking Member Leahy:

On behalf of the International AntiCounterfeiting Coalition (IACC), I write to you today in support of the Administration's nomination of Danny Marti to serve as the next U.S. Intellectual Property Enforcement Coordinator (IPEC). The IPEC plays a vital role in advancing policy as well as coordinating the efforts of the Executive Branch in the promotion and protection of IP as a cornerstone of the U.S. economy. Regrettably, that position has remained vacant for over a year; so I urge you to act swiftly to confirm Mr. Marti.

The IACC is an international organization of approximately 250 members including many of the world's best-known brands from the apparel, software, pharmaceutical, electronics, automotive, entertainment, consumer goods, and other product sectors. Our mission is to combat counterfeiting and piracy by promoting laws, regulations, directives, and relationships designed to render the theft of intellectual property undesirable and unprofitable.

Mr. Marti offers a wealth of professional experience and a demonstrated understanding of the challenges faced by the private sector with regard to IP protection and enforcement. The IACC fully supports the nomination of Mr. Marti as the next IPEC and urges you to confirm his nomination as soon as possible.

Thank you for your consideration.

Sincerely,



Bob Barchiesi  
President

*Protecting Rights Holders Since 1979*

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975 F Street, NW  
Suite 375  
Washington, DC 20004  
Tel: 202-393-NMPA (6672)

40 Wall Street  
6<sup>th</sup> Floor  
New York, NY 10005-1344  
Tel: 212-370-5330

**David M. Israelite**  
*President & CEO*

October 31, 2014

The Honorable Patrick Leahy  
Chairman  
Committee on Judiciary  
United States Senate

The Honorable Charles Grassley  
Ranking Member  
Committee on Judiciary  
United States Senate

Dear Chairman Leahy & Ranking Member Grassley:

As you know, on September 8 the President nominated Daniel Marti to serve in the role of Intellectual Property Enforcement Coordinator (IPEC).

This important post has been vacant for too long and it is an encouraging step that the administration has nominated a candidate as well-qualified as Mr. Marti. NMPA strongly supports his expeditious consideration and confirmation by the U.S. Senate.

NMPA appreciates your continued leadership to ensure that combating intellectual property crime and protecting rights holders remains a priority of the U.S. Government.

Sincerely,

A handwritten signature in black ink, appearing to be "D. Israelite", written over a light blue horizontal line.

Cc: Members of the Senate Judiciary Committee



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New York, NY 10017-5646, USA  
t: +1-212-642-1700 | f: +1-212-768-7796  
inta.org

November 5, 2014

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
U.S. Senate  
Washington, D.C. 20510

The Honorable Chuck Grassley  
Ranking Member  
Committee on the Judiciary  
U.S. Senate  
Washington, D.C. 20510

Dear Mr. Chairman and Ranking Member Grassley:

The International Trademark Association (INTA) applauds President Obama's nomination of Daniel Marti to be the U.S. Intellectual Property Enforcement Coordinator (IPEC). It has been quite some time that this extremely important post has been vacant and we believe Mr. Marti is the right person for the position.

Mr. Marti brings a wealth of knowledge and expertise to the position, along with a distinguished career in working on intellectual property issues. His legal practice has concentrated on the protection, management, and enforcement of intellectual property assets in the United States and abroad. As a result, Mr. Marti is accustomed to being on the front lines of efforts to protect the ideas and innovations that form the basis of our knowledge-based economy. Many of the issues he has dealt with in the private sector involving a wide range of IP-related matters including trademarks, false advertising, unfair competition, copyrights, trade secrets and cybersquatting, are the very issues which are foremost in the U.S. government's IP strategy.

The Office of the U.S. Intellectual Property Enforcement Coordinator plays a vital and important role in the protection of intellectual property, including trademarks. The IPEC helps to expand the very positive role that IP plays in the nation's economy, thereby protecting current jobs and ensuring future job creation. Given Mr. Marti's extensive experience working on intellectual property issues, we are convinced that he will take the work of the IPEC office to a whole new level for improving the enforcement of intellectual property rights, promoting cooperation with foreign governments and developing new approaches to reducing infringement in this digital age.

In conclusion, we look to your leadership in achieving timely action by the Senate Judiciary Committee on Mr. Marti's nomination and the Senate's confirmation so that Mr. Marti assume the position of Intellectual Property Enforcement Coordinator in the very near future.

Sincerely,

A handwritten signature in black ink, appearing to read "Mei-lan Stark".

Mei-lan Stark  
President

Powerful Network. Powerful Brands.

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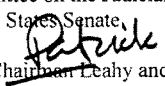

MOTION PICTURE ASSOCIATION  
OF AMERICA, INC.  
1600 EYE STREET, NORTHWEST  
WASHINGTON, D.C. 20006

CHRISTOPHER J. DODD  
CHAIRMAN  
CHIEF EXECUTIVE OFFICER

November 7, 2014

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate

Dear   Leahy and Ranking Member Grassley:

On behalf of the Motion Picture Association of America and its member companies—Paramount Pictures Corp., Sony Pictures Entertainment Inc., Twentieth Century Fox Film Corp., NBCUniversal, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment Inc.—I write in support of Daniel Marti for the position of Intellectual Property Enforcement Coordinator. Mr. Marti's experience should serve him well in his role as the Administration's representative tasked with coordinating strategies to protect intellectual property, an asset upon which millions of Americans' livelihoods depend.

With this Committee's foresight and leadership, Congress created the position of the Intellectual Property Enforcement Coordinator as part of the 2008 bi-partisan PRO-IP Act. Since enactment, the office has made important contributions toward reinforcing the collective responsibility that the federal government and private stakeholders share in protecting intellectual property. Not only must the IPEC ensure that enforcement goals are set and implemented across numerous agencies of the Federal Government, he or she must continue to facilitate the negotiation of voluntary initiatives to combat intellectual property theft. Our economy depends on creative goods and services, and without meaningful enforcement at the highest level, American jobs and our standing in the international community will suffer.

As you know, this vital office has been without a Coordinator since August 2013. We stand ready to work with you and the Committee on this important nomination and urge Mr. Marti's nomination receives consideration without delay.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris", written over a circular stamp or mark.

Christopher J. Dodd





November 10, 2014

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles L. Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
152 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Nomination for United States Intellectual Property Enforcement Coordinator**

Dear Chairman Leahy and Ranking Member Grassley:

I am writing on behalf of the American Intellectual Property Law Association ("AIPLA") to express our support for the Senate Judiciary Committee moving forward with the confirmation of the United States Intellectual Property Enforcement Coordinator. The Intellectual Property Enforcement Coordinator plays a critical role within the White House to ensure that the agencies tasked with the enforcement of U.S. intellectual property rights are taking a coordinated and cooperative approach.

AIPLA is a national bar association with approximately 15,000 members who are primarily lawyers in private and corporate practice and government service and in the academic community. AIPLA's members represent a wide and diverse spectrum of individuals, companies, and institutions, and are involved directly or indirectly in the practice of patent, trademark, copyright, and unfair competition law. Our members represent both owners and users of intellectual property.

The U.S. economy thrives on jobs created by intellectual property through the investment in the innovation of new products and creative works. Effective intellectual property enforcement is not only essential to American businesses, but also vital for the protection of U.S. consumers from harmful counterfeit products. AIPLA supported the creation of the Intellectual Property Enforcement Coordinator in the PRO-IP Act to ensure that the U.S. has a strong leader within the Administration to respond to the ever growing challenges related to intellectual property theft.

Since the creation of this role, AIPLA has engaged with the Office of the Enforcement Coordinator on a number of important issues and we look forward to continued involvement once the new Intellectual Property Enforcement Coordinator is confirmed. This important position has been vacant for over a year, and AIPLA urges the Committee to move forward with the confirmation process. We thank you in advance for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Sharon A. Israel".

Sharon A. Israel  
President  
American Intellectual Property Law Association



copyright alliance

Connecting creators. Protecting creative work.

November 14, 2014

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate

Dear Chairman Leahy and Ranking Member Grassley:

I am writing on behalf of the Copyright Alliance to urge the swift confirmation of Mr. Daniel Marti as the next Intellectual Property Enforcement Coordinator (IPEC). Mr. Marti has a distinguished record as an intellectual property lawyer, as well as a personal and family connection to the creative community, which will serve him well in understanding the many opportunities and challenges creative workers and innovators face in the current environment. As Managing Partner of the DC office of Kilpatrick Townsend & Stockton LLP, Mr. Marti additionally has the credentials indicating an ability to establish a more lasting administrative template for the office, which should serve to ensure that resources are used wisely in organizing and operating the office, particularly in the face of budgetary challenges.

It is also important to move quickly to fill the important position of IPEC, which has been vacant for almost sixteen months, for policy reasons. The copyright sector alone contributes over one trillion dollars and 5.4 million jobs to the economy and is credited with \$142 billion in foreign sales and exports. Maintaining a strong and capable presence in the role of IPEC is of vital importance to preserve and expand these contributions to our economy.

Thank you for the opportunity to share our views on this important nomination.

Best regards,

Sandra Aistars  
Chief Executive Officer  
Copyright Alliance



copyright alliance

Connecting creators. Protecting creative work.

The Honorable Dianne Feinstein  
The Honorable Charles Schumer  
The Honorable Dick Durbin  
The Honorable Sheldon Whitehouse  
The Honorable Amy Klobuchar  
The Honorable Al Franken  
The Honorable Christopher A. Coons  
The Honorable Richard Blumenthal  
The Honorable Mazie Hirono

The Honorable Orrin G. Hatch  
The Honorable Jeff Sessions  
The Honorable Lindsey Graham  
The Honorable John Cornyn  
The Honorable Michael S. Lee  
The Honorable Ted Cruz  
The Honorable Jeff Flake

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**CreativeFuture**  
Creativity. Innovation. Tomorrow.

November 20, 2014

The Honorable Patrick Leahy  
Chairman, Committee on the Judiciary  
United States Senate  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member, Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

I write on behalf of CreativeFuture in support of the nomination of Daniel Marti to serve as the next Intellectual Property Enforcement Coordinator.

CreativeFuture is a coalition made up of more than 350 companies and organizations – encompassing film, television, music, and book publishing – that promotes the value of creativity, expanded digital access to legitimate content, and the fundamental right of creators to determine how their works are distributed.

We believe Mr. Marti has the skills and experience necessary to coordinate the enforcement activities of the many federal agencies with responsibility for intellectual property. His predecessor also had a solid track record of encouraging voluntary initiatives among stakeholders in the internet ecosystem – including ISPs and the advertising community – to help take the profit out of piracy.

It is our hope that Mr. Marti will carry forward all of this important work, which has suffered while the IPEC position has remained unfilled for over a year.

On behalf of our 350 member organizations and firms and the hundreds of thousands of creative individuals they represent, I urge you and the members of your Committee to move Mr. Marti's nomination to the full Senate for approval before the end of this year.

We look forward to working with him and thank you for your consideration.

Sincerely,  
  
Ruth Vitale  
Executive Director  
CreativeFuture

5757 Wilshire Boulevard, Suite 900, Los Angeles, CA 90036  
+1-323-591-3000 | [www.CreativeFuture.org](http://www.CreativeFuture.org)

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**HISPANIC BAR ASSOCIATION  
OF THE DISTRICT OF COLUMBIA**

P.O. Box 1011 | Washington, D.C. 20013-1011  
www.hbadc.org

November 10, 2014

*Via Electronic Mail and U.S. Mail*

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
437 Russell Senate Building  
Washington, D.C. 20510

The Honorable Charles E. Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
135 Hart Senate Office Building  
Washington, D.C. 20510

Re: Highest Endorsement of Daniel H. Marti as Intellectual Property Enforcement Coordinator

Dear Chairman Leahy and Ranking Member Grassley:

The Hispanic Bar Association of the District of Columbia (HBA-DC) is pleased to give its highest endorsement to Daniel H. Marti to be Intellectual Property Enforcement Coordinator in the Executive Office of the President. We believe, based on Mr. Marti's exemplary career and numerous leadership positions and proven commitment to the Latino and immigrant communities, that he would be a valued member of President Obama's Administration.

The HBA-DC undertakes a careful review of candidates who seek its endorsement to make certain that individuals with impeccable credentials, as well as proper temperament and character, are promoted to these trusted positions. We ensure that candidates for endorsement meet the letter and spirit of our endorsement policy, which includes such criteria as established professional qualifications, a demonstrated commitment to the Latino community and to the advancement of other minority communities.

Mr. Marti's career reflects the requisite experience in intellectual property matters. He is presently the Managing Partner of the Washington D.C. office of Kilpatrick Townsend & Stockton LLP, the youngest and first Hispanic Managing Partner in the firm's history. For the past 15 years, Mr. Marti has devoted the entirety of his practice to the protection, management, and enforcement of intellectual property assets in the United States and abroad. He advises clients in connection with domestic and international trademark portfolio management, licensing, and other intellectual property-based transactions.

Mr. Marti also has experience in management that is helpful in working with the number of diverse actors in the world of intellectual property. At his firm, he has served as Chair of the Diversity Council, as Co-Chair of the firm's Intellectual Asset Acquisitions & Transactions team,

and as a member of the Firm's Shares Committee and Hiring Committee. Mr. Marti's recognition as Kilpatrick Townsend's "Coach of the Year" in 2007 reflects the kind of leadership qualities and ability to work with others that enhance his qualification as Intellectual Property Enforcement Coordinator.

Additionally, Mr. Marti has received a number of accolades, which attest to his wide recognition in the legal profession. He was named a "Super Lawyer" for Intellectual Property in Washington, D.C. by *Super Lawyers* magazine both in 2013 and in 2014, and as an "IP Star" by *Managing Intellectual Property* magazine in 2013 and again in 2014. Previously, Mr. Marti was profiled as one of only four national "Rising Stars" by *Diversity & the Bar*, the flagship publication of the Minority Corporate Counsel Association. Thus, Mr. Marti's distinguished career has prepared him exceedingly well to be Intellectual Property Enforcement Coordinator.

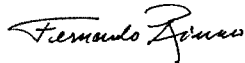
Mr. Marti has also demonstrated a commitment to the rights and advancement of the Hispanic community, to the District of Columbia community, and to the rights and advancement of historically disadvantaged communities with an impressive record of volunteer work. He has served as a keynote speaker and panelist for various events held by the HBA-DC and the Hispanic National Bar Association. Mr. Marti also serves on the Board for the American Cancer Society's National Capital Region Corporate Council and is a former member of the American Cancer Society Council's Finance Committee.

Mr. Marti has served as well on Kilpatrick Townsend's Pro Bono Committee, working closely with, and supporting, his firm's attorneys and staff to seek out a broad range of pro bono opportunities. As a Pro Bono Committee Member since 2002, Mr. Marti helped to update and increase Kilpatrick Townsend's Pro Bono Program which has grown to represent thousands of individuals and hundreds of community organizations that have benefited from the pro bono representation of his firm's attorneys by an amount of more than 270,000 hours of donated time, at a value of more than \$80 million.

In sum, Mr. Marti's admirable record of commitment to public service builds precisely the kind of profile that HBA-DC wishes to hold up to the legal profession as an example of the ideal nominee for office. For these reasons, the HBA-DC is both proud and excited to give its highest endorsement to Daniel H. Marti to be the President's Intellectual Property Enforcement Coordinator. We understand the Committee on the Judiciary values highly-qualified candidates to increase diversity in the highest levels of government. HBA-DC supports this critical goal in the face of our nation's changing demographic. The Committee is well placed to advance Mr. Marti as the ideal, highly qualified, nominee to Intellectual Property Enforcement Coordinator.

Please let me know if you require further information in support of Mr. Marti. I can be reached by email at [president@hbadc.org](mailto:president@hbadc.org).

Sincerely,



Fernando Rivero  
President  
Hispanic Bar Association of the District of Columbia

cc: Sergio Oheninger, David Diaz, Endorsement Committee Co-Chairs





December 9, 2014

The Honorable Patrick Leahy  
Chairman, United States Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Charles Grassley  
Ranking Member, United States Senate Committee on the Judiciary  
152 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

We applaud the Senate Judiciary Committee for considering the nomination of Danny Marti as U.S. Intellectual Property Enforcement Coordinator (IPEC). The IPEC plays a vital role in advancing the intellectual property contributions of companies such as those that publish computer and video games for video game consoles, handheld devices, personal computers, and the Internet.

Mr. Marti has dedicated his career to the protection of intellectual property and his confirmation will further ensure the \$21 billion U.S. video game industry will continue to fuel the foundation of the high-tech, innovative, and artistic experiences created by our industry's 146,000 direct and indirect employees and enjoyed by hundreds of millions of U.S. consumers.

We urge the confirmation of his nomination by the Senate as soon as possible.

Sincerely,

A handwritten signature in cursive script that reads 'Michael D. Gallagher'.

Michael D. Gallagher  
President & CEO

Cc: Members of the Senate Committee on the Judiciary

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CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

1615 H STREET, N.W.  
WASHINGTON, D.C. 20062-2000  
202/463-5310

December 9, 2014

The Honorable Patrick Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, strongly supports the nomination of Mr. Danny Marti, Esq., for the position of U.S. Intellectual Property Enforcement Coordinator (IPEC) and urges the committee to report his nomination without delay.

As you well know, in 2008 Congress enacted the PRO-IP Act to better protect the intellectual property (IP) rights of inventors and creators while ensuring the products consumers use are authentic, safe, and effective. The PRO-IP Act recognized that more effective IP enforcement requires additional resources, better laws, and high-level leadership to implement a strategic and well-coordinated approach across federal government agencies.

The IPEC office has been without such leadership for more than a year, and it is imperative that this position is filled without delay to help fulfill the promise of the PRO-IP Act. The Chamber believes that Mr. Marti is a highly-qualified nominee who would be a strong advocate for intellectual property rights.

Sincerely,



R. Bruce Josten

cc: Members of the Committee on the Judiciary

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