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NOMINATIONS OF HON. ANNA BLACKBURNE-RIGSBY, PHYLLIS D. THOMPSON, AND JENNIFER M. ANDERSON

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF HON. ANNA BLACKBURNE-RIGSBY AND PHYLLIS D. THOMPSON TO BE ASSOCIATE JUDGES, DISTRICT OF COLUMBIA COURT OF APPEALS, AND JENNIFER M. ANDERSON TO BE ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

JULY 11, 2006

Available via http://www.access.gpo.gov/congress/senate

Printed for the use of the
Committee on Homeland Security and Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

30–855 PDF WASHINGTON : 2007

For sale by the Superintendent of Documents, U.S. Government Printing Office
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CONTENTS

	Page
Opening statements:	
Senator Voinovich	1

WITNESSES

TUESDAY, JULY 11, 2006

Hon. Eleanor Holmes Norton, a Delegate to Congress from the District of Columbia	1
Hon. Anna Blackburne-Rigsby to be Associate Judge, District of Columbia Court of Appeals:	
Testimony	4
Prepared statement	13
Biographical and professional information	16
Phyllis D. Thompson to be Associate Judge, District of Columbia Court of Appeals:	
Testimony	6
Prepared statement	44
Biographical and professional information	45
Jennifer M. Anderson to be Associate Judge, Superior Court of the District of Columbia:	
Testimony	7
Prepared statement	64
Biographical and professional information	66

APPENDIX

Post-hearing question for Ms. Anderson submitted by Senator Lieberman	86
Paul Strauss, a U.S. Senator (Shadow) from the District of Columbia, prepared statement	88

NOMINATIONS OF HON. ANNA BLACKBURNE-RIGSBY, PHYLLIS D. THOMPSON, AND JENNIFER M. ANDERSON

TUESDAY, JULY 11, 2006

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:07 a.m., in room 342, Dirksen Senate Office Building, Hon. George V. Voinovich, presiding.

Present: Senator Voinovich.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Good morning and welcome. Today, the Committee on Homeland Security and Governmental Affairs meets to consider the nominations of Judge Anna Blackburne-Rigsby of the D.C. Superior Court to be an Associate Judge of the District of Columbia Court of Appeals, Phyllis Thompson to be an Associate Judge of the District of Columbia Court of Appeals, and Jennifer Anderson to be an Associate Judge of the D.C. Superior Court.

I know it is an honor to be nominated to serve as a judge. This profession carries the significant responsibility to protect the rights and liberties of citizens, uphold and interpret the law, and resolve disputes peacefully, fairly, and effectively. I believe all the three nominees to be well-qualified for the position to which they have been nominated. I look forward to hearing from them today about their qualifications for the bench and their reasons for pursuing public service.

But before I do that, I would like to yield for an opening statement from Delegate Eleanor Holmes Norton, my good friend from the District of Columbia. Delegate Norton, we are very happy to welcome you back to this Committee. You are very conscientious in your responsibilities to the District, and we look forward to hearing from you.

STATEMENT OF HON. ELEANOR HOLMES NORTON, A DELEGATE TO CONGRESS FROM THE DISTRICT OF COLUMBIA

Ms. NORTON. Thank you very much. Mr. Chairman, thank you, on behalf of the District of Columbia, for the number of matters that you are shepherding through for us, and I bring you the gratitude of the people of the District of Columbia for your work for us.

I have a great pleasure to introduce three very well-qualified candidates today. I won't belabor their extraordinary qualifications.

The first is Associate Judge Anna Blackburne-Rigsby, already a Judge on the Superior Court of the District of Columbia. She had very extensive experience leading to that appointment in the Corporation Counsel's Office as Special Counsel to the Corporation Counsel, as the Chief of its Family Services Division. She went on to become a Magistrate Judge before, and with the selection of this Committee, she became an Associate Judge of the Superior Court. She has had extensive work with the Bar, including Chair of the Washington Bar Association Judicial Counsel, Nominating Chair of the Association of Women Judges, and too many others to name. She has been an Associate Judge of the Superior Court since 2000.

She is a graduate of the Howard University Law School, where she was Articles Editor of the *Howard Law Journal.* She is a native Washingtonian, though I knew her parents and I knew her as a child in New York City when I lived there. She is very well qualified to join our D.C. Court of Appeals, in my view, and I strongly recommend her to you.

I am equally honored to recommend Phyllis D. Thompson to the D.C. Court of Appeals. Ms. Thompson comes from law practice, the first African-American woman to become a partner in one of our major law firms, Covington and Burling. She has been very active in our Bar, Vice Chair of the D.C. Court of Appeals Committee on Bar Admissions, a Bar Examiner, and Vice Chair of the D.C. Board of Appeals and Review. She has been a member of the Board of Governors of the D.C. Bar and has been involved in many other matters involving the Bar and civic matters.

She has been an academic star, a graduate with high honors from George Washington University Law School, Order of the Coif, Notes Editor of the *George Washington Law Review.* She has an M.A. in religion with a concentration in ethics. She is a graduate, 1974, of George Washington University, class valedictorian, Phi Beta Kappa, and also a native Washingtonian, Mr. Chairman.

I am very pleased, as well, to introduce another distinguished nominee, Jennifer M. Anderson. I am very pleased to recommend her. Even though, Ms. Anderson, I think you may not have had the good fortune to be born in the District of Columbia, I think she was born in Baltimore. It is close enough. [Laughter.]

But she has worked very extensively with us in our U.S. Attorney's Office as the Chief of the Felony Section, Chief of the Homicide-Major Crimes Section of the Third District, very extensive experience there after coming from private practice, where she worked in defense work in the civil context. She was with Cadwalader and Wickersham here in Washington before coming to the U.S. Attorney's Office.

She won many awards there for outstanding achievement, and she comes highly recommended by her peers and the U.S. Attorney. She is a graduate of Catholic University Law School and Mount St. Mary's College in Maryland. I am pleased to recommend her, as well as the other two nominees, to you and hope that you will pass them on to the floor of the Senate in due course.

Senator VOINOVICH. Thank you, Delegate Norton. We really appreciate your being here today to introduce these outstanding can-

didates for the judiciary. I understand that you have other commitments. Thanks again for being here today.

Ms. NORTON. Thank you.

Senator VOINOVICH. I understand that we have several judges here, Judge Sullivan, who is Chairman of the D.C. Judicial Nomination Commission. Judge Sullivan, would you stand up and be recognized for being here. Chief Judge Washington of the D.C. Court of Appeals. Judge, nice to see you again. Finally, Chief Judge King of the D.C. Superior Court is here. It is very nice that you are here today.

It is the custom of our Committee to have the witnesses sworn in, so if you will stand, I am going to administer the oath to you. Do you swear this testimony you are about to give this Committee is the truth, the whole truth, and nothing but the truth, so help you, God?

Judge BLACKBURNE-RIGSBY. I do.

Ms. THOMPSON. I do.

Ms. ANDERSON. I do.

Senator VOINOVICH. Thank you.

Judge Rigsby, I understand that you have family members here today, as well as several of your colleagues. I would like to give you an opportunity before you make your statement to introduce your family and friends.

Judge BLACKBURNE-RIGSBY. Thank you, Mr. Chairman. It is a pleasure to be here this morning with so many of my family members, friends, and colleagues. With me today are my husband, Judge Robert Rigsby; my son, Julian Christopher Rigsby; my parents, Elmer and Laura Blackburne; my sister, Faith Blackburne. I am also joined by several of my colleagues on the Superior Court bench, Judge Zinora Mitchell-Rankin, Judge Erik Christian, Judge Stephanie Duncan-Peters, and from the Court of Appeals today, Judge Inez Smith Reid. I also have the privilege of having with us today Lieutenant General Daniel James, Retired, and Brigadier General Errol Schwartz from the D.C. National Guard. And I am joined by many friends and distinguished members of the Bar and colleagues who have supported me over the years, and I am so pleased that they could be here today.

Senator VOINOVICH. I know this is a special time for them. You have been sitting on one bench and you are now being appointed to another bench. I am sure that for all of our nominees this is a milestone in your respective careers and a special time for your families.

Judge BLACKBURNE-RIGSBY. Thank you.

Senator VOINOVICH. If you would like to proceed with your statement.

TESTIMONY OF HON. ANNA BLACKBURNE-RIGSBY,[1] TO BE ASSOCIATE JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS

Judge BLACKBURNE-RIGSBY. Thank you, Mr. Chairman and Members of the Committee and Committee staff members. I am honored to appear before you today. I am grateful and deeply hum-

[1] The prepared statement of Judge Blackburne-Rigsby appears in the Appendix on page 13.

bled by President Bush's nomination of me to serve as a Judge on the District of Columbia Court of Appeals.

I would like to express my sincere gratitude for the introduction by Delegate Eleanor Holmes Norton and for her support of my nomination to this honorable position. I am also honored by the presence of Chief Judge Eric Washington of the District of Columbia Court of Appeals, Chief Judge Rufus King of the Superior Court of the District of Columbia, and Judge Emmet Sullivan of the U.S. District Court for the District of Columbia, the Chair of the District of Columbia Judicial Nomination Commission.

I would like to take this opportunity again to just say how much the support of my family has meant to me throughout this process. I am grateful to my husband, Judge Robert Rigsby, for his undying love and support and patience. I am grateful to my son, Julian Christopher Rigsby, and so proud of him and all of his accomplishments.

I want to say a special thank you to my parents, Elmer and Laura Blackburne, who have been role models to me throughout my life. Their commitment to this country and to community service throughout my childhood and to this day has been a role model for me. And my sisters, Dr. Rose Blackburne, who was not able to be here today, and Faith Blackburne, have been a support and source of love to me.

As I mentioned, I have the privilege of being joined by many friends, family members, judicial colleagues, and other distinguished guests, and without all of their support over the years, I would not be before you today. With your permission, Mr. Chairman, I would just like to ask them to stand and be recognized once again, if I might.

Senator VOINOVICH. Fine.

Judge BLACKBURNE-RIGSBY. I have a number of family members and friends, and they are being shy now, but I would just like for them to stand. It means so much to me that they could be here with me.

Senator VOINOVICH. You certainly brought a great support group with you today.

Judge BLACKBURNE-RIGSBY. Thank you, Mr. Chairman.

Senator VOINOVICH. Thank you all for being here.

Judge BLACKBURNE-RIGSBY. I was fortunate that my parents encouraged my early involvement in the church, political, and civic activities. Their encouragement ingrained in me a deep commitment to the rule of law and social justice, which has been a driving force in both my personal and professional development. My parents' influence impressed upon me the importance of education, excellence, and public service, which led me to pursue undergraduate work at Duke University and law school at Howard University. My husband, a decorated U.S. Army officer, and I have dedicated our lives to serving our country and the citizens of the District of Columbia. My commitment to public service has been evidenced through my work with the Bar and within the community.

After graduating from law school, I entered private practice at the law firm of Hogan and Hartson here in Washington, DC, and gained invaluable professional training from the perspective of a large law firm. My appreciation for our system of justice was fur-

ther expanded when I left the private sector to join the Office of the Attorney General of the District of Columbia, formerly the Office of Corporation Counsel, where I gained unique insights into the importance of law in the public sector. Working in the public sector instilled in me a sense of justice and compassion for my community that further inspired my commitment to public service.

In 1995, I was appointed to serve as a Magistrate Judge on the Superior Court of the District of Columbia, and as a Magistrate Judge, I became intimately familiar with the litigants and issues brought before the Superior Court of the District of Columbia.

In 2000, I had the honor of appearing before you, Mr. Chairman, and this Committee and was later confirmed to the position I now hold on the Superior Court of the District of Columbia. As an Associate Judge, I have presided over calenders in the Criminal, Civil, and Family Divisions of our court and I have strived to provide thoughtful and scholarly decisions for the benefit of the parties appearing before me. This experience, I believe, would allow me to bring valuable insight to the appellate process.

My love of the law has inspired me to seek teaching opportunities, as well, and I had the opportunity and privilege to teach a trial advocacy workshop at the Harvard Law School and served as an adjunct professor at the David A. Clarke School of Law, where I taught professional responsibility.

Being an Associate Judge requires an individual commitment to fairness and the diligent pursuit of justice. Being an effective Appellate Judge brings with it the additional obligation to work with colleagues to ensure the uniformity of the law and its equal application to all. I believe that my diverse legal background along with my experience as a Magistrate Judge and an Associate Judge of the Superior Court of the District of Columbia have prepared me to make a valuable contribution to the District of Columbia Court of Appeals, if confirmed.

The President has nominated me to take the seat being vacated by Judge Frank Schwelb. I would like to note that I had the privilege of sitting by designation with Judge Schwelb. I admire and greatly respect all of the judges of the District of Columbia Court of Appeals. Should I be confirmed, I hope to serve as ably as the judges currently serving on the court.

Thank you, Mr. Chairman and Members of the Committee, for this opportunity to appear before you, and I would be pleased to answer any questions.

Senator VOINOVICH. Thank you, Judge Rigsby. Ms. Thompson.

TESTIMONY OF PHYLLIS D. THOMPSON,[1] TO BE ASSOCIATE JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS

Ms. THOMPSON. Good morning, Mr. Chairman. Thank you for the opportunity to introduce my family members and friends who are here today. With me today are my daughters, Emily Famutimi and Elinor Famutimi. They are here, and I hope they will stand. Emily just graduated from the Harvard Law School and is studying for the Bar, and it is a great sacrifice that she has made coming today. I appreciate it. [Laughter.]

[1] The prepared statement of Ms. Thompson appears in the Appendix on page 44.

Senator VOINOVICH. You bet it is.

Ms. THOMPSON. Elinor is a student at New York University, and I am very proud of both of them.

I also have with me my brother, the Reverend Wayne Thompson, my sister, the Reverend Wanda Thompson, my cousin, Emma Johnson, and our very close family friend, the Reverend Roy Settles.

Senator VOINOVICH. Welcome.

Ms. THOMPSON. I also have with me here today my law partners and friends, Carolyn Corwin, Joanne Grossman, and Thomas Williamson, and I thank them very much for coming today. I hope they will stand, as well. And also my very able assistant, Karen Baxter, whom I haven't seen but I think is in the room.

Senator VOINOVICH. She is back there.

Ms. THOMPSON. And I would also like to acknowledge the presence of the Hon. Emmet Sullivan, who is the Chair of the D.C. Judicial Nomination Commission, who has worked so hard to identify judicial nominees. I appreciate him being here today. Also here is Dean Alfreda Robinson from the National Bar Association, and I appreciate her coming today, as well.

Senator VOINOVICH. I want to thank all of you for being here today. Judge Sullivan, we appreciate all the hard work that you do. I am very much impressed by the candidates that have come before this Committee. Thank you.

Ms. THOMPSON. Shall I proceed with my opening statement, Mr. Chairman?

Senator VOINOVICH. You should proceed, yes.

Ms. THOMPSON. Thank you. I am grateful for this opportunity to appear before the Committee today. I want to thank President Bush for having nominated me to serve on the District of Columbia Court of Appeals. I am deeply honored to have been selected for this high position.

I also thank the Committee for holding this hearing today during this very busy period and thank Representative Norton for her kind introduction. The Committee staff have been extremely helpful to all of us in navigating the confirmation process, and I know that they have worked diligently in collecting and reviewing and helping the Senators to review the information pertinent to the Committee's consideration of my nomination. I very much appreciate their work, and I want particularly to thank Ms. Jennifer Hemingway for her kind assistance and courtesy.

Let me also express my gratitude to my family for their constant love and support, and especially to my mother, Juanita Thompson, who was unable to be here today but who has supported me all my life and made this possible for me.

A big thank you to my professional colleagues, especially my colleagues at the law firm of Covington and Burling, from whom I have learned so much over the course of my career, for making it possible for me to do the array of work that has helped to prepare me for the position for which I have been nominated.

And my thanks also to the D.C. Judicial Nomination Commission for the tremendous time and hard work that they devote to identifying candidates for judicial positions in the District and for their confidence in me.

I would also like to say thank you to Chief Judge Washington and to the other judges on the D.C. Court of Appeals who, one by one, have sent me kind messages of support and encouragement since my nomination. I feel quite privileged at the possibility of joining such a fine group of judges.

I would welcome the opportunity, Mr. Chairman, to be a public servant for my native District of Columbia by serving as a Judge on the D.C. Court of Appeals. I pledge that, if confirmed, I will apply my skills energetically and diligently to help advance the work of the court. I also pledge that, if confirmed, I will treat all litigants with courtesy, respect, and fairness and that I will approach all matters with the impartiality and thoughtful deliberation that are necessary to maintain the public's faith in and respect for this high institution.

Thank you again for the chance to be here today and for your consideration of my nomination. I welcome any questions that the Committee may have, and I will do my best to answer them. Thank you.

Senator VOINOVICH. Thank you very much. Ms. Anderson, would you like to introduce your friends and family?

TESTIMONY OF JENNIFER M. ANDERSON,[1] TO BE ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. ANDERSON. Thank you, Mr. Chairman. I am honored today to have my parents, Frank and Brid Anderson; my sisters, Colleen and Noreen; and my brother, Dermot, his wife, Karen, and their daughter, Lena. If they could stand. Lena was hoping that she would get to see President Bush today.

Senator VOINOVICH. Sorry, he is not coming. [Laughter.]

Ms. ANDERSON. Hope springs eternal.

I am also honored to be joined today by the U.S. Attorney for the District of Columbia, Ken Wainstein, who has been very supportive to me during this process, and I would like to recognize him and my longtime friend and colleague from the U.S. Attorney's Office, Mary Pat Brown.

I would also like to recognize a number of my friends and colleagues from the U.S. Attorney's Office and the Metropolitan Police Department and the FBI who have come here today to support me. They are all individuals that I have worked with over the past 15 years during my tenure at the U.S. Attorney's Office, and in particular in the last 10 years while I have been doing homicides and have been very helpful and supportive to me during that time.

Senator VOINOVICH. Thank you all for being here.

Ms. ANDERSON. It is a great honor to appear before you today, Senator, and I wish to thank Delegate Holmes Norton for her very kind remarks.

More than 35 years ago, my parents packed up their five children and moved 3,000 miles across the ocean from Dublin, Ireland. They did so because they wanted to provide their children with the opportunities that they themselves did not have and which they believed existed in this country. In looking back, that move was not

[1] The prepared statement of Ms. Anderson appears in the Appendix on page 64.

an easy one, and I think my parents made many sacrifices so that their children could have a better life.

I clearly have benefitted from those sacrifices, and it is somewhat amazing to find myself sitting before you today, having been nominated by the President of the United States for an Associate Judge of the Superior Court of the District of Columbia. I would like to thank President Bush for giving me what I see as a wonderful opportunity by nominating me for this position.

Having practiced criminal law for the last 15 years in the Superior Court, I have a great affinity for the court, and I hope that I can make a substantial contribution if I am fortunate enough to be confirmed.

I would like to thank the Senate staff of the Committee on Homeland Security and Governmental Affairs for their work, and in particular, I, too, would like to recognize Jennifer Hemingway, who has been very helpful and very gracious to me during this process. I would also like to thank White House Counsel John Smith, who is present today and who has also been very helpful.

It is a great honor to be here. Having litigated for the last 15 years, I recognize the worth of brevity and so I would wrap up my remarks saying that I am happy to be here and happy to answer any questions that you have.

Senator VOINOVICH. Thank you very much.

There are three questions that the Committee asks all of our nominees. I would like each of you to respond after I have asked the question.

First, is there anything that you are aware of in your background that might conflict or present a conflict of interest with the duties of the office to which you have been nominated?

Judge BLACKBURNE-RIGSBY. No, Mr. Chairman.

Ms. THOMPSON. No, Mr. Chairman.

Ms. ANDERSON. No, Mr. Chairman.

Senator VOINOVICH. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Judge BLACKBURNE-RIGSBY. No, Mr. Chairman, I do not.

Ms. THOMPSON. No, Mr. Chairman, I do not.

Ms. ANDERSON. No, Mr. Chairman.

Senator VOINOVICH. Do you know of any reason, personal or otherwise, that would in any way prevent you from serving the full term for the office to which you have been nominated?

Judge BLACKBURNE-RIGSBY. No, Mr. Chairman.

Ms. THOMPSON. No, Mr. Chairman.

Ms. ANDERSON. No, Mr. Chairman.

Senator VOINOVICH. I would be very interested in knowing how you became aware of this judgeship. Ms. Rigsby, you are on the Superior Court and have experience, but was there an opening published and you indicated you were interested, or how did it work? I mean, you are on the inside. Maybe that is why you have so many people here today. [Laughter.]

Judge BLACKBURNE-RIGSBY. When there is a vacancy created on either the Court of Appeals for the District of Columbia or the Superior Court, the Judicial Nominations Commission publishes an

announcement in a number of the local legal publications. But the court is a close-knit community, both the Associate Judges on the Superior Court and on the Court of Appeals, and many of them are colleagues and have been friends for many years working together. I was encouraged by some of my colleagues to consider applying for the Court of Appeals.

Senator VOINOVICH. Judge Blackburne-Rigsby, why are you interested in serving on the Court of Appeals? You are going to be moving out of the trial court and going to appeals. What particularly was the main reason for making this change?

Judge BLACKBURNE-RIGSBY. Thank you for that question, Mr. Chairman, because I have given it a lot of thought. I served at the Superior Court level for 10 years, 5 years as a magistrate and the last 5 years as an Associate Judge, and I have loved the trial court. But I also enjoy and have taken many opportunities to write opinions as a trial court judge, and I enjoy that process. The opportunity to serve on the Court of Appeals, which is our highest court, and makes—and interprets the law—not makes the law, that is your job, Mr. Chairman—interprets the law——

Senator VOINOVICH. I hope that is the way you see it. [Laughter.]

Judge BLACKBURNE-RIGSBY [continuing]. For the District of Columbia, and has oversight over our Bar, which is a distinguished Bar, is an opportunity that I would welcome and be honored to serve in that capacity, if confirmed.

Senator VOINOVICH. In other words, you have had the experience on the trial level and have enjoyed writing opinions and believe that is where you could make a better contribution than perhaps you are making right now?

Judge BLACKBURNE-RIGSBY. I think so, and I believe that the experience at the trial court level would allow me to bring an important perspective to the appellate process, having seen it at both levels of the trial court. The magistrate judges here dispose of many cases that never reach the Associate Judges on the Superior Court, and so having had both of those perspectives, I think, would allow me to bring some unique insights into the appellate process.

Senator VOINOVICH. Ms. Thompson, you have been associated with a distinguished law firm here in town and became a partner. I suspect that you are making a lot more money than you are going to make. [Laughter.]

But you have had no judicial experience. Why is it that you feel you want to serve on the Court of Appeals.

Ms. THOMPSON. Thank you for that question, Senator. I do very much want to do this job. I have always thought throughout my career——

Senator VOINOVICH. And you noticed the publication and then you submitted an application.

Ms. THOMPSON. That is correct. I actually saw a notice in the *Daily Washington Law Reporter,* I believe, a few years ago when I first applied for a position. What caused me to do it, frankly, is that I had been working for a body known as the D.C. Board of Appeals and Review. This was a volunteer body that functioned as a sort of intermediate level court of appeals for the District. The members were appointed by the Mayor, and we heard appeals from a variety of decisions by administrative law judges in the city and

various civil infraction-type cases, and we also conducted hearings in a number of matters such as licensing matters. In that capacity—I was Vice Chair of the Board of Appeals and Review—I wrote many appellate——

Senator VOINOVICH. Was this pro bono?

Ms. THOMPSON. It was, and that is in part why I thanked the members of my law firm, my professional colleagues, for giving me that opportunity because I did do it as pro bono work. I spent many hours doing it, and I wrote many appellate-type opinions, and I realized that I finally knew what I wanted to do when I grew up, actually—— [Laughter.]

Ms. THOMPSON [continuing]. Because I enjoyed doing it so much. I think that is actually my greatest strength as a lawyer, the ability to analyze and read and write and do written analysis and the kinds of opinions that appellate judges write. And I had always wanted sometime during the course of my career to do government service for my native District of Columbia, and those things came together, and I did suddenly know what I wanted to do.

Throughout my career at Covington and Burling, I have done work for State Government agencies, and in many respects, I have always felt like I was working for local government and enjoyed it very much. But in this capacity, I could really do that.

And you are right. I will take a pay cut, but I am willing to do it.

Senator VOINOVICH. Ms. Anderson, you have had extensive experience in the U.S. Attorney's Office. What is it that makes the Superior Court attractive to you?

Ms. ANDERSON. Well, I think that——

Senator VOINOVICH. Did you want to be a Judge when you started your legal career?

Ms. ANDERSON. No, Senator. Actually, when—I came to the U.S. Attorney's Office from a large law firm and, I think like many people, planned to get some good solid trial experience and then go back to my very well-paying law firm job and found instead that I absolutely loved the U.S. Attorney's Office job and kind of loved the satisfaction of working in public service. And so instead of staying there the 3 or 4 years that I thought I would be, it has been 15½ years.

I have, over the years, realized that is where I wanted to spend my time in public service, and I believe that my time at the U.S. Attorney's Office—I have done a wide range of crimes from the most simple to the last 10 years where I have really been focused on the most serious local crime, that of homicides—has given me a kind of a great insight into the city and into the court.

Senator VOINOVICH. So you spend a lot of time in the court?

Ms. ANDERSON. Yes, I do, and I still try—I have been a supervisor for the last 5 years, but I still try cases. I have tried two homicide cases this year. So I think I have a very good sense of the court and what an impact that the court can make in many different ways, and I think the impact that one can make as a Judge is far greater than the impact that you can make as a prosecutor or a defense lawyer, and so that is why I applied.

Senator VOINOVICH. Over the years you have had a chance to experience many different judges, haven't you——

Ms. ANDERSON. I have, Senator.

Senator VOINOVICH [continuing]. At the Superior Court. I am not trying to put you on the spot, but—— [Laughter.]

What particular attributes do you hold high in terms of the judges that you have had to appear before? What are the things that really stand out that you have thought to yourself, if I ever get a chance to sit there, I am going to do that?

Ms. ANDERSON. I have actually given a lot of thought to that question, Mr. Chairman, and I have had the opportunity to appear in Superior Court in front of a wide range of judges, and also in the U.S. District Court. I think, predominately, it is important that a Judge be fair, that it be very clear that the Judge is evaluating the facts and making a decision based on the facts and the applicable law. I also think that it is critical that a Judge have a good demeanor, I think which can be very difficult sometimes in Superior Court because it is a very tough environment and it doesn't always run smoothly. But I think it is critical that a Judge treat the parties with respect and dignity.

And I also think that it is very important that a good Judge in Superior Court is a good case manager because the crush of cases in that court, as I am sure you know, is very high, and I think the good judges are ones who keep the parties' feet to the fire, recognize the need for continuances, if necessary, but also recognize stalling when they see it on either side and push forward and quickly decide issues.

I also think that it is critical that a good Judge be decisive and hopefully know the law. I think my experience with the U.S. Attorney's Office gives me a very good grounding in criminal law in particular. But I do think that as a litigant, I love to appear in front of a Judge that can rule quickly.

Senator VOINOVICH. Thank you. I suspect that your immigrant parents are very proud of you.

Ms. ANDERSON. They most certainly are, Mr. Chairman.

Senator VOINOVICH. I suspect they also encouraged you to work hard in school.

Ms. ANDERSON. Yes. I think they believed—I think they raised all of us children with a very good work ethic, and I think we all felt growing up that we had been given this wonderful opportunity, that they had made a lot of sacrifices to come to this country. I think when you are smaller, you don't have any sense of appreciation of that, but as you grow older and the idea of picking up your roots and moving, and we had no family in this country to speak of, I think as you get older, you appreciate that, and I very much appreciate what they did.

Senator VOINOVICH. It is an amazing thing. All of you in your own rights have stories to say what a wonderful country we have. My grandparents on both sides were born overseas. My father was an orphan, so I never did get to know his parents, but I did get to know my mother's parents. So often when I leave the Senate and walk down the steps—I like to walk up and down those steps to the Senate. It is like going up to an altar. [Laughter.]

But when I come down, I look up at Freedom, and I pinch myself to think what a great country we live in. This is terrific.

So I congratulate all of you on your respective careers. You are all distinguished individuals and should feel very proud of what you have accomplished. All of you, I know, could make more money in the private sector than you can in public service, but I think that the opportunity to make a difference in other people's lives is something very important. You can't be compensated for that. That is part of the thing I have enjoyed about my career in government. Next year, it will be 40 years for me. So I thank you for being willing to serve the District and to serve your country.

We will do everything that we can to move your nominations along.

I have really enjoyed listening to you today.

Judge BLACKBURNE-RIGSBY. Thank you, Mr. Chairman.

Ms. THOMPSON. Thank you, Mr. Chairman.

Ms. ANDERSON. Thank you.

Senator VOINOVICH. Thank you very much. This hearing is adjourned.

[Whereupon, at 10:45 a.m., the Committee was adjourned.]

APPENDIX

Statement of Judge Anna Blackburne-Rigsby
Nominee to the District of Columbia Court of Appeals
before the
United States Senate
Committee on Homeland Security and Governmental Affairs
Tuesday, July 11, 2006

Mr. Chairman, members of the Committee, I am honored to appear before you today. I am grateful and deeply humbled by President Bush's nomination of me to serve as a Judge on the District of Columbia Court of Appeals.

I would like to express my sincere gratitude for the introduction by Delegate Eleanor Holmes Norton, and for her support of my nomination to this honorable position. I am also honored by the presence of Chief Judge Eric Washington of the District of Columbia Court of Appeals, Chief Judge Rufus G. King, III of the Superior Court of the District of Columbia, and Judge Emmett Sullivan of the United States District Court for the District of Columbia and Chair of the District of Columbia Judicial Nomination Commission.

I would also like to take this opportunity to thank the members of my family for being here. My husband, Judge Robert R. Rigsby, and my son, Julian Christopher Rigsby are here with me today. I am so grateful to them for their love, support, and patience. My parents, Elmer and Laura Blackburne are present. They have been my role models, constant guides, and support. My sisters Dr. Rose Blackburne and Ms. Faith Blackburne, who have also been a source of love and support for me, are present as well. I also have the privilege of being joined by a number of my friends, judicial colleagues, staff, and distinguished members of the bar. Without all of their support over the years, I would not be before you today. With your permission, Mr. Chairman, I would like to

publicly thank them by asking them to please stand. If possible, I would also like to include with my submission for the record, a list of all of my family, friends, and colleagues who are in attendance.

I was fortunate that my parents encouraged my early involvement in the church, political, and civic activities. Their encouragement ingrained in me a deep commitment to fostering social justice through the rule of law, which has been a driving force in both my personal and professional development. My parents' influence impressed upon me the importance of education, excellence, and public service, which led me to pursue undergraduate work at Duke University, and law school at Howard University. My husband, a decorated United States Army Officer, and I have dedicated our lives to serving our country and the citizens of the District of Columbia. My commitment to service has been evidenced through my work with the bar and within the community.

After graduating from law school, I entered private practice at the law firm of Hogan and Hartson here in Washington, DC and gained invaluable professional training from the perspective of a large law firm. My appreciation for our system of justice was further expanded when I left the private sector to join the Office of the Attorney General of the District of Columbia (formerly the Office of Corporation Counsel) where I gained unique insights into the importance of the law in the public sector. Working in the public sector instilled in me a sense of justice and compassion for my community that further inspired my commitment to a career in public service.

In 1995, I was appointed to serve as a Magistrate Judge on the Superior Court of the District of Columbia. As a Magistrate Judge, I became intimately familiar with the litigants and issues brought before the Superior Court of the District of Columbia. In

2000, I had the honor of appearing before this Committee, and was later confirmed to the position I now hold on the Superior Court of the District of Columbia. As an Associate Judge, I have presided over calendars in the Criminal, Civil, and Family Divisions, and have strived to provide thoughtful and scholarly decisions for the benefit of the parties and lawyers appearing before me. This experience would allow me to bring valuable insight to the appellate process. My love of the law has inspired me to seek teaching opportunities as well. I had the opportunity to teach a trial advocacy workshop at Harvard Law School, and served as an adjunct professor at the David A. Clarke School of Law where I taught Professional Responsibility.

Being an associate judge requires an individual commitment to fairness and the diligent pursuit of justice. Being an effective appellate judge brings with it the additional obligation to work with colleagues to ensure the uniformity of the law and its equal application to all. I believe that my diverse legal experience, along with my experience as a Magistrate Judge and an Associate Judge of the Superior Court of the District of Columbia, has prepared me to make a valuable contribution to the District of Columbia Court of Appeals, if confirmed.

The President has nominated me to take the seat being vacated by Judge Frank Schwelb. I would like to note that I had the privilege of sitting by designation with Judge Schwelb. I admire and respect all of the judges of the District of Columbia Court of Appeals. Should I be confirmed, I hope to serve as ably as the judges currently serving on the court. Thank you Mr. Chairman, and members of the Committee, for this opportunity to appear before you. I would be pleased to answer any questions.

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

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

Anna Blackburne-Rigsby
Anna Elizabeth Blackburne-Rigsby
Anna Elizabeth Blackburne
Anna Blackburne Rigsby
Anna B. Rigsby
Anna Rigsby

2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).

United States Citizen

3. Current office address and telephone number.

Superior Court of the District of Columbia
500 Indiana Avenue, N.W., Room 3540
Washington, DC 20001
(202) 879-0055

4. Date and place of birth.

May 6, 1961
Washington, DC

5. Marital status (if married, include maiden name of wife, or husband=s name). List spouse=s occupation, employer=s name and business address(es).

Married to Judge Robert R. Rigsby
Superior Court of the District of Columbia
500 Indiana Avenue, N.W., Room 1620
Washington, DC 20001

6. Names and ages of children. List occupation and employer=s name if appropriate.

7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and dates each degree was received. Please list dating back from most recent to earliest.

Howard University School of Law, Washington, DC
1984 – 1987
Juris Doctor, 1987

Duke University, Durham, NC
1979 – 1983
Bachelor of Arts, Political Science, 1983

State University of New York, Stony Brook
Association of Public Policy and Management Fellowship
Summer 1982

American University, Washington, DC
Washington Semester Exchange Program
Spring 1982

Jamaica High School
Jamaica, NY
High School Diploma, 1979

8. Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.

Congressman Joseph Addabbo (Deceased)
U.S. House of Representatives
Washington, DC
Legislative Intern
May 1985 – July 1985

Borough of Manhattan Community College
Summer Enrichment Program
199 Chambers Street
New York, NY
Counselor and Administrator
June 1984 – August 1984

Coro Foundation
690 Market Street
San Francisco, CA 94120
Fellow, Public Affairs Program
August 1983 – June 1984

9. 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.

Duke University Presidential Leadership Award, Spring 1983
National Association of Black Women Attorney's Scholarship, Fall 1984
American Jurisprudence Award for the highest grade in Property, Spring 1985
Academic Distinction in Legal Writing, Spring 1985
Howard University School of Law, Law Journal,1985 – 1986
Co-Captain of the Charles Hamilton Houston Moot Court Team, 1986 – 1987
Howard University School of Law, Graduated in the top 5% of the class, Spring 1987
Business and Professional Women's League Sojourner Truth Award 2004
NAACP Youth and College Division Award of Appreciation, July 2000
Bar Association of the District of Columbia Certificate of Appreciation for Outstanding Service to the Bench, The Bar and the Citizens of the District of Columbia, October 2000

The National Judicial College- Spring 2001

Teaching Team Member, Harvard Law School Winter 2002 and 2003 Trial Advocacy Workshops

10. Business relationships. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.

D.C. Rape Crisis Center, Board Member 1994-1998

Washington Council of Lawyers, Board Member 1994-Present

Greater Washington Area Chapter Woman Lawyers Division of the National Bar Association, Board Member 1997 – 1998

GAP Community Child Care Center, Board Member 2001-Present

University of the District of Columbia, David A. Clark School of Law
Adjunct Professor, Professional Responsibility, Summer 2000 and Fall 2002

Washington Bar Association Judicial Council Chair 2003 – 2004

National Association of Women Judges (NAWJ)

- Secretary for District 4, 2002 – 2005
- Vice President for District 4, 2005 – Present

International Association of Women Judges – Member of the Board of Management Trustees

Jack and Jill of America Incorporated, Washington D.C. Chapter
President (June 2006- May 2008)

11. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.

District of Columbia Mayor's Inter-Governmental Advisory Board on Children and Families (1993)

District of Columbia Court of Appeals Task Force on Families and Violence (1994-1996)

Superior Court of the District of Columbia Child Abuse and Neglect Task Force (1995 – 1996)

Superior Court of the District of Columbia Domestic Violence Coordinating Council (1994 – Present)

New York State Bar - 1988-Present
National Bar Association – 2000-Present
Washington Bar Association – 1987-Present

District of Columbia Bar – 1989 to Present
International Law Section – 1989
Arts and Entertainment Section – 1989
Children's Initiative Committee – 1994
Family Law Section – 1995
Panelist, Family Law Section's "Dialogue Between Bench and Bar" Annual program – 1996, 1998
D.C. Affairs Section

Greater Washington Area Chapter
Women's Lawyers Division of the National Bar Association (GWAC)
Law Firm/Corporate Counsel Committee 1989-1992
Board Member 1997–1998
Program Committee Member 1998–1999

Charlotte E. Ray Inn of Court
Master 1997- 2003

Washington Council of Lawyers
Board Member 1994 – Present
Judge for Mock Trial Program 1994 – 2000

National Planning Committee
Lawyer's Committee for Civil Rights Under the Law
African-American Women and the Law Conference 1994-1995

Hispanic Bar Association 1993

12. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 12. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

NAACP	
Member	1975-Present
President, Jamaica, NY Youth Council	1977-1979
National Board of Directors Youth Member	1979-1980
Chair of the National Youth Work Committee	1979-1980
Alpha Kappa Alpha Sorority, Inc.	1982-Present
St. Gabriel's Petworth Catholic Youth Organization Program	
Girl's Basketball Coach/Mentor	1993-Present
Shiloh Baptist Church, Washington, DC	
Member	1993-Present
Co-Chair, Couples Ministry	1998-Present
Co-Chair, Homecoming Committee	1995-1997
Co-Chair, Service of Remembrance	1996-1998
Sunday School Teacher	2004-Present
D.C. Rape Crisis Center, Board Member	1994-1998
D.C. Superior Court Judicial Education Committee	2000-Present
D.C. Superior Court Committee on the Selection and Tenure of Magistrate Judges	2000-Present
D.C. Superior Court, Security Committee	2001-Present
D.C. Superior Court, Council for Child Abuse and Neglect Panels Committee	2003
D.C. Superior Court, Family Court Implementation Committee	2005
D.C. Superior Court, Juvenile Court Implementation Committee	2005
Jack and Jill of America, Incorporated Washington, D.C. Chapter	2001-Present
Links Incorporated, Washington DC Chapter	2006

13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.

New York State Court of Appeals	Admitted March 16, 1988
District of Columbia Court of Appeals	Admitted May 17, 1989
United States District Court for the District of Columbia	Admitted April 6, 1992
United States Supreme Court	Admitted November 9, 1993

14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.

"The Rights of Tenants When the Landlord Defaults on the Mortgage." 29 Howard Law Journal 27 (1986).

"The Nuts and Bolts of Evaluating Current and Proposed Drug Testing Policies for Municipal Employees." Presented at the Annual Spring Meeting of the National Institute of Municipal Law Officers, April 1993. Excerpts of the paper were also Published in the National Institute of Municipal Law Officers Journal.

In the Matter of Minor Child T.C., 131 D.W.L.R. 1449, 1457 (July 30-31, 2003)

Covington & Burling v. Int'l Mktg. & Research, Inc., 131 D.W.L.R. 1553 (August 12, 2003)

Sharp v. Ward, 132 D.W.L.R. 1997 (October 11, 2004)

D.C. Hous. Auth. V. Whitfield, 132 D.W.L.R. 1997 (October 11, 2004)

In Re G.E., 879 A.2d 672 (D.C. 2005)

(See copies at Attachment H)

15. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with three (3) copies of any of these speeches.

I am regularly asked to give remarks at law schools and secondary schools and other events. For these appearances I generally do not prepare a formal written speech.

Education Overcomes Discrimination – Speech Presented in Turin, Italy at the Conference of the National Office Against Racial Discrimination on March 23, 2006.

(See Attachment G)

16. Legal career.

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

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

(2) Whether you practiced alone, and if so, the addresses and dates;

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

Associate, Hogan and Hartson
555 13th Street, N.W.
Washington, DC 2002
September 1987 – June 1992

Special Counsel to the Corporation Counsel (The Office is now known as the Office of the Attorney General for the District of Columbia)
Office of the Corporation Counsel
441 4th Street, N.W.
Washington, DC 20001

1992 – 1994

Deputy Corporation Counsel, Family Services Division (The Office is now known as the Office of the Attorney General for the District of Columbia)
Office of the Corporation Counsel
441 4th Street, N.W.
Washington, DC 20001
1994 – 1995

Hearing Commissioner (The title has been changed to Magistrate Judge)
Superior Court of the District of Columbia
500 Indiana Avenue, N.W. , Room 4450
Washington, DC 20001
1995 – 2000

Associate Judge
Superior Court of the District of Columbia
500 Indiana Avenue, N.W., Room 3540
Washington, DC 20001
2000 – Present

b. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

Hogan and Hartson
From September 1987 until June 1992, I was an associate at the law firm of Hogan and Hartson. The general character of my practice during my tenure at the law firm was civil litigation. As a member of the Litigation Group, I litigated cases ranging from real estate, commercial law, employment law, and civil rights law.

Because of the firm's diverse clientele, I was able to work on a broad cross-section of cases including complex multi-party cases and smaller cases, appellate and trial level cases, state and federal court cases and administrative proceedings. As a second -year associate, I was selected as part of a five-lawyer team, headed by a court appointed special master, to review the Securities and Exchange Commission Equal Employment Opportunity

Program. The nationwide audit resulted in a 400-page report that evaluated the Commission's EEO program and set forth numerous recommendations for changes in the structure of the program.

Throughout my tenure at Hogan and Hartson, I was an active participant in the firm's *pro bono* program. I represented a refugee from El Salvador and conducted a full evidentiary hearing before an Immigration and Naturalization Service Administrative Law Judge, which resulted in a grant of political asylum, at a time when less than 3% of cases involving refugees from El Salvador resulted in grants of asylum. I performed legal work for AIDS patients at the Whitman Walker Clinic such as writing wills. I also participated in the Georgetown University Law School Street Law program by coaching students for their moot court arguments.

Special Counsel to the Corporation Counsel of the District of Columbia

I left Hogan and Hartson in June of 1992 to become Special Counsel to the Corporation Counsel and I served in that capacity until October 1994. As Special Counsel, I was part of the senior management team for the 500 person Office of the Corporation Counsel. I was responsible for supervising sensitive and complex litigation and policy matters. I provided legal advice and policy guidance to the Office of the Corporation Counsel, the Office of the Mayor, the Office of the City Administrator and District of Columbia agency heads. As Special Counsel, I was responsible for facilitating inter-agency coordination on the broad range of policy and legal issues affecting vital District of Columbia programs.

Deputy Corporation Counsel, Family Services Division

Office of the Corporation Counsel, District of Columbia

In October of 1994, I was appointed Deputy Corporation Counsel for the Family Services Division. I was responsible for managing and supervising the Family Services Division staff of 65 attorneys, paralegals, investigators and support staff. I supervised the prosecution of child abuse and neglect cases, child support enforcement cases, domestic violence cases and elder abuse cases.

I provided legal advice and policy guidance to the Department of Human Services. In addition to my management responsibilities, I served as lead counsel for the District of Columbia in the implementation phase of the *LaShawn A. v. Barry* class action lawsuit involving the District of Columbia's child welfare program.

Hearing Commissioner, Superior Court of the District of Columbia

In November of 1995, I was appointed by the Chief Judge as a Hearing

Commissioner for the Superior Court. As a Commissioner, I presided over matters in the Criminal, Civil and Family Divisions as well as the Domestic Violence Unit of the Court. My jurisdiction as a Hearing Commissioner was similar to that of municipal and state district court judges. I authorized to issue final judgments and orders, which were appealable first to a Superior Court Judge and then to the D.C. Court of Appeals.

In the Civil Division of the Superior Court, where I was assigned at different intervals during 1996, I presided over small claims cases as well as non-jury civil cases involving amounts in controversy of up to $25,000. In the Criminal Division, I determined bond and conditions of release in arraignments and presentments for misdemeanor and felony cases. I made probable cause determinations at preliminary hearings and conducted preventive detention hearings where critical decisions regarding the pretrial liberty interests of defendants are weighed against the safety of the community. I was assigned to the Preliminary Hearing and Non-Jury Misdemeanor Trial Calendar from January 1997 until October 1997. In the Family Division, I was authorized to conduct initial hearings in juvenile and child abuse and neglect cases where I am required to make critical decisions regarding the liberty interests of juveniles prior to trial. I was authorized to make decisions regarding the removal of children from their parent or guardian in abuse and neglect cases. In addition, I heard uncontested divorce cases, made initial paternity and child support determinations, and adjudicated contested motions to modify or terminate child support. I was assigned to the uncontested divorce and paternity and child support calendars from December 1995 until October 1996. I was also responsible for conducting court reviews to monitor the cases of mentally retarded adults who are committed to the District of Columbia 's Mental Retardation System. I was assigned to the mental retardation calendar from January 1997 through December 1997.

Since its inception in 1996, I have been integrally involved with the work of the Domestic Violence Unit of the Court. In the Domestic Violence Unit, I entered consent Civil Protection Orders (CPO's) as well as conduct full evidentiary hearings in contested CPO cases. I resolved custody, visitation and child support disputes that arose in the context of domestic violence cases. In addition, I conducted probable cause hearings, made bond determinations and accept guilty pleas in the criminal misdemeanor cases assigned to the Domestic Violence Unit (currently felony matters are not assigned to the unit). I was assigned to the Domestic Violence Unit from October 1997 until December 1997 and from January 1999 to September 1999.

In addition to handling the cases on my assigned calendars, I have actively

participated in Court administration through my work on various Court committees. In January of 1996, the Chief Judge appointed me to the Neglect Task Force. The Task Force was instituted to monitor neglect and abuse cases of children who are removed from their homes and placed with relatives who are not licensed foster parents. The Court and the other agencies involved in the child welfare system, adopted many of the Task Force's recommendations.

I served on the Court's Intra-Family Rules Committee which revised the Court rules to reflect changes brought about by the creation of the Court's Domestic Violence Unit in 1996.

I was also a member of the Court's Pre-Trial Mental Examination Committee, which is currently reviewing and updating the procedures for evaluating and screening defendants to ensure that they are mentally competent and understand the criminal proceedings.

Associate Judge, Superior Court of the District of Columbia

Since my appointment as an Associate Judge, I have had the opportunity to preside over matters in the Criminal Division, the Civil Division and Family Court. I am currently assigned to the Civil Division. In addition to maintaining a busy calendar in each of my respective rotations, I have strived to be thoughtful and scholarly in my decisions. To that end I have had four of my trial court opinions published in the Daily Washington Law Reporter. I have continued to be actively involved in the administration of the Superior Court. I have actively facilitated the work of several key Court committees, including the Judicial Education Committee, the Committee on the Selection and Tenure of Magistrate Judges, the Counsel for Child Abuse and Neglect ("CCAN") Panels Committee and the Court Security Committee. I currently preside over a busy Civil II calendar. I have tried several complex and protracted medical malpractice cases as well as other contract and tort cases. Based on my experience trying these medical malpractice cases, I identified the need for a detailed medical malpractice case outline. I developed a detailed case outline, which I shared with all of the judges in the Civil Division. Additionally, as part of the Civil Division's 2005 Winter-In-Service Training, I organized a medical malpractice training session, which featured members of both the plaintiff and defense bar. While maintaining a busy trial calendar, I have strived to be thoughtful and scholarly in my decisions. A recent Memorandum Opinion and Order that I issued in one of my bench trials, *Ameriquest Mortgage Co. v. Mona Hutchinson, et al. Civil action No. 01-2629 (December 12, 2005),* was quoted in a Washington Post Business Section article on January 24, 2006. I have attached a copy of the medical malpractice case outline and the Washington Post article and my *Ameriquest* decision.

I had the honor and privilege to sit by designation with the District of Columbia Court of Appeals, pursuant to D.C. Code § 11-707(a)(2001) on May 26, 2005. I reviewed briefs, heard oral arguments and deliberated to reach a decision in three cases. I authored a decision in one of the three cases, *In Re G.E., 879 A.2d 672 (D.C. 2005).* The experience was both challenging and rewarding and affirmed my interest and desire to continue serving the citizens of the District of Columbia as a member of the Court of Appeals. I have attached copies of all three decisions for the Committee's review.

In keeping with my commitment of service to the bar, I have served as a panelist for two of the District of Columbia Bar Continuing Legal Education Programs, as well as for the District of Columbia Bar Mandatory Professional Responsibility course. I continue to be committed to promoting the rule of law through my work with voluntary bar associations and other organizations. I am the past chair of the Judicial Council of the Washington Bar Association and have been an active member of the Judicial Council for the past five years. I am currently an officer for District Four of the National Association of Women Judges and a member of the Board of Management Trustees for the International Association of Women Judges.

Teaching Team Member, Harvard Law School Winter Trial Advocacy Workshops – 2002 and 2003
I also had the honor of teaching trial advocacy at the Harvard Law School Trial Advocacy Workshop. This teaching experience would assist me in the appellate process and with crafting appellate decisions. The appellate process and appellate decisions serve as a basis to teach, guide and inform trial judges, the bar and the community at large about the law. Because appellate decisions often form the basis for broader public policy that is implemented by other government agencies, it is important that their reasoning be thorough and clearly stated and informed by experience with other branches of government.

Adjunct Professor, Professional Responsibility, Summer 2000 and Fall 2001
I taught as an adjunct professor at the David A. Clarke School of Law where I taught Professional Responsibility.

c. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

See Response to question 16(a) and (b) above.

d. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

In 2000 I became an Associate Judge on D.C. Superior Court. In 1995 I became a Hearing Commissioner for D.C. Superior Court. As a Judge and as a Commissioner, it would be inappropriate for me to appear in Court on behalf of clients. As a Judge (and previously as a Hearing Commissioner) I preside over matters in the Court on a daily basis.

From 1994–1995, I was the Deputy Corporation Counsel for the Family Services Division of the Office of the Corporation Counsel. In addition, I served as the lead counsel in the implementation phase of the *LaShawn A. v Barry* case [89-CV-1754, U.S. District Court, D.C.]. The *LaShawn A.* case was a class action lawsuit which involved the District of Columbia's child welfare program. During the time I was lead counsel, the implementation phase of the case was extremely active and involved a number of complex legal issues as well as practical implementation issues. I appeared in the U.S District Court for the District of Columbia on a regular basis.

As Deputy of the Family Division. I appeared in Superior Court occasionally, in a supervisory capacity, to observe the work of the attorneys in my division.

As an associate at Hogan and Hartson from 1987 to 1992, my appearances in court were less frequent. I worked on a number of complex cases involved in protracted litigation. I was responsible for writing memoranda and pleadings, conducting depositions and other discovery; however, many of the cases settled or continued in litigation after my involvement with the case was completed. On a number of smaller cases, and cases before administrative agencies, I appeared in court or before administrative tribunals.

(2) What percentage of these appearances was in:
(a) Federal courts (including Federal courts in D.C.);
(b) State courts of record (excluding D.C. courts);
(c) D.C. courts (Superior Court and D.C. Court of Appeals only);
(d) other courts and administrative bodies.

As a judge, I do not appear in Court on behalf of clients. Similarly, as a Hearing

Commissioner I did not appear in Court on behalf of clients. Generally, 100% of the matters over which I preside are in Superior Court. However, in May 2005 I had the honor of sitting by designation with the District of Columbia Court of Appeal pursuant to D.C. Code § 11-707 (a) (2001). When I was lead counsel in the implementation phase of the *LaShawn A.* case, 100% of my appearances were in the Federal District Court for the District of Columbia. As Deputy of the Family Division of the Office of the Corporation Counsel, 100% of my appearances, in which I observed attorneys from my division, were in Superior Court.

While the majority of the larger cases I litigated, either settled or continued in protracted litigation, I had greater responsibility in smaller cases. For example, I tried as lead counsel a "lemon law" case in the Circuit Court of Fairfax County, Virginia, but the case settled before judgment. I also tried a political asylum case to favorable judgment before an Administrative Law Judge at the Immigration and Naturalization Service.

Some of the litigation I worked on at Hogan and Hartson was appellate litigation before the District of Columbia Court of Appeals.

(3) What percentage of your litigation has been:
(a) civil;
(b) criminal.

Since my appointment in 2000 as a Judge on D.C. Superior Court approximately 30% of the cases over which I have presided have been criminal. From 2000 to 2002, I was assigned to the criminal division where I handled misdemeanor jury and non-jury trials. Additionally from January 2005 to April 2005, I presided over the Juvenile Drug Court calendar. The remaining 70% of my time as an Associate Judge, I have been assigned to a civil calendar. During my tenure as a Hearing Commissioner from 1995 to 2000, approximately 30% of the matters I presided over were criminal. From January 1997 to September of 1997, I was assigned to the Criminal Division of the Court, where I handled the preliminary hearing calendar and non-jury misdemeanor calendar. I conducted probable cause hearings and I heard non-jury misdemeanor cases. In the Domestic Violence Unit, I also heard guilty pleas in the criminal misdemeanor cases that arose during my assignment to the Unit from October 1997 to December 1997 and from January 1999 to September 1999. The remaining two-thirds of the time I handled civil matters in the Family and Civil Divisions and the Domestic Violence Unit.

While at Corporation Counsel, 100% of the matters I litigated were civil matters. The majority of the cases I worked on while at Hogan and Hartson were litigated in federal courts. However, all of my litigation was civil and all involved non-jury trials.

(4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include

cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

(5)

Since becoming an Associate Judge of the Superior Court I have presided over and tried approximately 200 cases to verdict. The trials have included jury and non-jury criminal matters as well as jury and non-jury civil matters ranging from landlord and tenant cases to multi-million dollar civil lawsuits as well as custody and child abuse and neglect cases. Additionally, the civil calendar over which I currently preside involves a heaving motions practice. Some of those cases are resolved on dispositive motions.

As a Hearing Commissioner from 1995 – 2000, I presided over and tried more than 200 cases to verdict or judgment. During the nine months I was assigned to the Criminal Division, I presided over numerous non-jury misdemeanor cases to judgment. In the Civil Division, I presided over numerous small claims cases and other civil matters (involving amounts in controversy up to $25,000) to final judgment. Finally, I have tried to final judgment numerous family and intra-family cases involving issues such as child support, domestic violence, child custody, and visitation.

As a Judge and as a Commissioner I was not permitted to represent clients.

From 1994 to 1995, while I was lead counsel in the implementation phase of the *LaShawn A.* case, I litigated several motions in the case for which a final judgment was rendered. However the case is a complex class action lawsuit, which has been in protracted litigation since 1989, and the remedy phase of the case continues to date.

(5) What percentage of these trials was to
(a) a jury;
(b) the court (include cases decided on motion but tabulate them separately).

Since my appointment as an Associate Judge, approximately 80% of my trials have been jury trials, approximately 15% have been bench trials and approximately 5% have been resolved on dispositive motions. As a Hearing Commissioner, 100% of the matters I presided over were non-jury matters. Prior to my appointment as a Hearing Commissioner, all of the matters I litigated were non-jury matters.

17. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify

the party/parties you represented and 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 court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and telephone number(s) of co-counsel and of the principal counsel for the other parties.

In Re G.E., 879 A.2d 672 (D.C. 2005) – This case was significant because I sat by designation with a division of the D.C. Court of Appeals pursuant to D.C. Code § 11-707(a)(2001). I reviewed briefs and heard oral argument in three cases. I authored the opinion in this case. *In Re G.E.* involved an appeal by the District of Columbia from a D.C. Superior Court decision granting a motion to suppress post-*Miranda* statements. At issue was whether a police officer's question to G.E., a minor, "Are you sure?" after he was notified of and unequivocally invoked his *Miranda* rights constituted further interrogation of G.E. while in police custody in violation of the U.S. Supreme Court decisions in *Miranda* and *Edwards*. After establishing probable cause to arrest G.E., a fourteen-year-old boy, for suspected murder, an officer of the Metropolitan Police Department verbally gave G.E. his *Miranda* warnings, and G.E. filled out a waiver. Although G.E. affirmatively responded to questions one through three of the waiver, G.E. wrote "no" to question four, which asked if he was willing to answer questions without an attorney present. The trial judge found, based on the testimony, that after invoking his right to counsel G.E. did not initiate further conversation with the police, but rather, the initiation came from the police when the interrogating officer asked: "Are you sure?" G.E. subsequently changed his answer to question four and was interrogated by police. We accepted the trial judge's findings of evidentiary fact, and reviewed the judge's legal conclusions regarding whether G.E. was in custody and whether the facts, as found by the trial judge, establish an *Edwards* violation. Under *Edwards*, "not only must the current interrogation cease, but [the accused] may not be approached for further interrogation 'until counsel has been made available to him.'" We ultimately affirmed the trial court's legal conclusion that, under the circumstances, the police officer's question constituted unlawful interrogation of G.E. after he invoked his Fifth Amendment right to counsel.

D.C. Hous. Auth. v. Whitfield, 132 D.W.L.R. 2445 (Dec. 10, 2004) – In this case the District of Columbia Housing Authority (DCHA) sought to evict a tenant for non-drug related crimes that occurred outside of her rental unit and off of the premises of the public housing complex where she resided. At trial, the parties stipulated that the defendant had made all payments due under the lease and that defendant committed both of her criminal offenses away from the leased unit and away from the Hopkins Apartments, which is the public housing complex where

she resided. At trial the defendant moved to dismiss the action on the grounds that D.C. Code Ann. § 42-3505.01(c) only permits a landlord to evict a tenant based on criminal activity *in* the rental unit *or in* the building where the rental unit is located. I ruled that since the language of D.C. Code Ann. § 42-3505.01(c) is on its face clearly limited to criminal activity *in* the rental unit or building where the unit is located, it was not applicable to the instant case. Accordingly, I denied the defendant's motion to dismiss and was left with resolving the following questions: (1) whether the Notice to Quit was sufficient if the plaintiff was seeking possession of the unit on the theory that the tenant violated her lease, and therefore, could be evicted under D.C. Code Ann. §42-3505.01(a); and, (2) if the notice was sufficient under D.C. Code Ann. §42-3505.01(a), then whether defendant's assault convictions, which did *not* occur within the premises, constitute activity that "threatens the health, safety, or right to peaceful enjoyment" of other residents of the defendant's public housing complex. I ultimately held that the DCHA failed to show a sufficient nexus between the tenant's criminal activity that did not take place on the premises and any alleged threats to the safety or welfare of the other tenants. I was careful to note that the DCHA has a compelling interest in keeping its properties free from criminal activities and in insuring that the privilege of public housing is afforded to law-abiding citizens who do not commit illegal acts, which endanger the health and safety of DCHA residents or interfere with their peaceful enjoyment of the property. I acknowledged that there likely will be instances where a public housing resident has committed a non-drug related crime or illegal act off of the premises of their public housing complex, which could warrant eviction, if a clear nexus is established between the past non-drug criminal act, and the health and safety of residents on the DCHA premises where the tenant resides.

Sharp v. Ward, 132 D.W.L.R. 1997 (Oct. 11, 2004) – This issue of first impression came before the Court on cross-motions for summary judgment by defendants Phillip Wayne Ward ("Ward") and Hertz Corporation ("Hertz"). The issue before the Court was whether Hertz could shift the responsibility for primary insurance coverage of vehicles it owns, to the renters of their vehicles, where the renter's personal insurance policy only provides excess coverage for rental cars. The District of Columbia Code, unlike several other state statutes, does not speak directly to this issue. Hertz argued that it satisfied its obligation to "provide" insurance coverage under D.C. Code §31-2403(b)(1) (2004), by requiring renters of their vehicles to purchase Liability Insurance Supplement ("LIS") or waive the LIS and agree to shift primary liability for any damage to the rental vehicle to their personal insurance policy. Defendant Ward sought indemnification by way of Declaratory Judgment against co-defendant Hertz for his $4,000 contribution to Plaintiff's personal injury claim settlement in addition to attorney's fees in the amount of $2,797.00. In response to Ward's motion, Hertz filed a Cross-motion for Summary Judgment. I held that under the current District of Columbia

statutory scheme, Hertz had primary responsibility to insure vehicles it owns and rents to customers.

Covington & Burling v. Int'l Mktg. & Research, Inc., 131 D.W.L.R. 1553 (August 12, 2003) – This matter was before the Court on plaintiff's and defendants' cross-motions for summary judgment. Plaintiff Covington & Burling ("Covington") is a law firm employing approximately 400 attorneys in its Washington D.C. office. The defendants in this case were Fax.Com, a company in the business of sending mass fax advertisements on behalf of paying clients, and its two officers, Kevin Katz, President of Fax.Com and Eric Wilson the Chief Technology Officer. Fax.Com's clients Advanced Cellular Communications, Colorjet, and International Marketing & Research, Inc. were also named as defendants. Covington sought summary judgment against defendants for liability and damages for sending 1,634 unsolicited fax advertisements within a one week period to its Washington D.C. office in violation of the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227, ("TCPA"). The defendants' Motion for Summary Judgment challenged the constitutionality of the TCPA on First Amendment grounds. I granted the United States' Motion to Intervene in this case and the United States filed an *amicus* brief defending the constitutionality of the TCPA. I ruled that the TCPA does not violate the U.S. Constitution and entered a judgment against Fax.com, its officers and clients, and granted trebled damages after finding that the defendants violations of the TCPA were willful.

In the Matter of Minor Child T.C., 131 D.W.L.R. 1449, 1457 (July 30-31, 2003) - This case involved a protracted contested custody dispute between the mother and great grand mother. I ultimately awarded permanent custody of the six-year-old child to her great-grandmother. After making detailed factual findings and applying the applicable legal standard, I found that the child's need for continuity of care and a settled home, necessitated awarding custody to the great grandmother. I also concluded that returning the child to the mother would have been detrimental to the child. This was one of the most difficult decisions I have had to make. There is a presumptive right of a "fit" mother to have custody of and raise her child unless there is clear and convincing evidence that requires the Court, in the "best interest" of the child, to deny custody to the mother and award custody to a third party. In this case the weight of the evidence, including the testimony of the three psychologists who evaluated the mother, the testimony of the many witnesses in this case, the mother's own testimony and my observation of her, led me to conclude that the mother was "unfit" to parent the child. Even if it could be argued that the mother were a "fit" parent, the evidence was clear and convincing that awarding custody of the child to her would have been detrimental to the child.

The names, addresses and telephones numbers of attorneys who appeared on behalf of the parties in each of the above cases are included as Attachment A to this questionnaire.

18. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).

Harvard Law School Trial Advocacy Workshop – I taught trial advocacy as a volunteer faculty member.

University of the District of Columbia David A Clarke School of Law – I was an Adjunct Professor and taught Professional Responsibility.

Judicial Education Committee (JEC): The JEC is responsible for the ongoing education of the Superior Court's Judges and Magistrate Judges on the procedural and substantive areas of the law, as well as issues that impact our judicial decision-making. As a member of the JEC, I have organized court-wide trainings that featured panels on a range of topics, including a Supreme Court plenary panel featuring former Solicitor General of the United States, Theodore Olson, a Patriot Act panel and a panel on the court and the media. Additionally, I have participated in the training of new Judges.

District of Columbia Bar: I have participated as a panelist in three Continuing Legal Education programs sponsored by the District of Columbia Bar.

- "Mandatory D.C. Bar Course on the D.C. Rules of Professional Conduct and D.C. Practice" (December 3, 2002).
- "Winning with Technology: Creating Persuasive Courtroom Presentations" for the District of Columbia Bar Continuing Legal Education Program (November 1, 2002).
- "Civil Litigation: Perspectives From the Bench" (October 1, 2004).

Judicial Council of the Washington Bar Association: I have been an active member of the WBA Judicial Council since 2000. I chaired the first Spring Symposium, which addressed the topic of Judicial Independence. The Spring Symposium has now become an annual Judicial Council program. I served as Chair of the Judicial Council of the WBA for the 2003-2004 term. During my

tenure I expanded upon the Judicial Council's tradition of improving the administration of justice and promoting the rule of law through education, community outreach and mentoring. Our monthly meetings of the Judicial Council provided a forum for lively discussions and an opportunity for fellowship amongst judges from the Federal Courts, the local District of Columbia Courts and the Administrative tribunals. Highlights of the activities of the Judicial Council during my tenure include:

- Attendance at the Judicial Council monthly meetings increased.

- The Judicial Council hosted its Fourth Annual Spring on March 23, 2004 in the Ceremonial Courtroom of the United States District Court for the District of Columbia. Nearly 200 judges, lawyers, policy makers, community leaders and students attended. The topic for the Symposium was "Traditional v. Therapeutic Courts: Conflict or Continuity". The panel examined the role of judges in adjudicating cases that come before the court presenting a myriad of societal problems.

- The Judicial Council co-sponsored the "Minority Judicial Clerkship/Internship Program", along with APABA (Asian Pacific American Bar Association) Hispanic Bar Association, Howard University School of Law and others. I served as a panelist and more than 75 law students and attorneys attended the program on September 20, 2003, at Howard University School of Law School.

- On behalf of the Judicial Council I gave remarks and participated in the WBA's annual Ollie May Cooper Award Program and Founders' Lecture on October 16, 2003, which honored the late Judge Margaret Haywood. The Judicial Council also made a special presentation to Judge Haywood, a crystal owl, as a tribute to her wit, and wisdom.

- The Judicial Council sponsored a Pre-Law program on November 20, 2003 in conjunction with the Charles Hamilton Houston Pre-Law Society at Howard University. More than 40 undergraduate students participated in the program.

National Association of Women Judges (NAWJ): The National Association of Women Judges provides strong, committed judicial leadership to ensure fairness and gender equality in American courts. I currently serve as Vice President for District 4 of NAWJ, which includes the District of Columbia, Virginia and Maryland. During the 25th Annual Conference of the NAWJ, I organized a panel of respected experts to discuss legal and policy issues surrounding the Patriot Act.

International Association of Women Judges (IAWJ): I joined the Board of Management Trustees for the IAWJ in June 2004. In my capacity as a Member of the Board, I was invited to speak at the Conference of the National Office Against Racial Discrimination in Turin, Italy in March 2006.

19. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide three (3) copies of all opinions you wrote during such service as a judge.

Yes. I am currently an Associate Judge of the District of Columbia Superior Court. I was appointed by the President of the United States in 2000 and confirmed by the Senate. The D.C. Superior Court is a unified trial court of general jurisdiction. Previously I was a Hearing Commissioner for the Superior Court of the District of Columbia from 1995 to 2000. I was appointed to that position by the Chief Judge of the Superior Court. As a Hearing Commissioner, I had limited jurisdiction to handle certain matters of the Superior Court. I adjudicated matters in the criminal, civil and family divisions and domestic violence unit of the Superior Court. As a Commissioner, I was also bound by the code of Judicial Ethics. My response to question #16 above, describes my duties as an Associate Judge and my duties as a Hearing Commissioner in more detail.

As an Associate Judge and as a Hearing Commissioner, many of my decisions and rulings are made orally from the bench or entered on the designated court forms. Therefore although I have adjudicated hundreds of cases and issued ruling on hundreds of motions, I have only written detailed opinions or dispositive orders in a small percentage of the cases. In response to this question, I have attached copies of all of the significant written opinions that I was able to locate. See Attachment B. I am currently and have been for the past four years assigned to a civil calendar which involves a busy motions practice. I typically issue more than a hundred orders a month, but very few of these orders relate to dispositive motions that would resolve a case. For example some are short orders regarding continuances or other administrative or ministerial issues.

I am including copies of the Memoranda Opinions and Orders and Judgments I issued in bench trials over which I presided, as well as written orders in significant motions I decided and published orders and opinions.

a. List all court decisions you have made which were reversed or otherwise criticized on appeal.

See Attachment C which lists all of my cases that have been appealed and the disposition on appeal.

20. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).

In 1994, I was an unsuccessful candidate for the District of Columbia Bar Board of Governors.

21. Political activities and affiliations.

a. List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.

See question #20 above

b. List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.

None.

c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last ten (10) years.

None.

22. Have you ever been investigated, arrested, charged, held or convicted (include pleas of *nolo contendere*) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, regulation, or ordinance other than for a minor traffic offense?

No.

23. Have you or any business of which you are or were an officer ever been a party or otherwise involved as a party in any other legal or administrative proceedings. If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a coconspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.

Pamela H. Roth, Esq., et al v. The Honorable Rufus G. King, III; as Chief Judge of the Superior Court of the District of Columbia, et al. 03cv01109
(2003 D.D.C., pending before the D.C. Cir.)
I was sued on May 21, 2003, along with several other judges of the District of Columbia Superior Court. Plaintiffs, attorneys in the District of Columbia, filed suit against judges of the Superior Court and representatives from the Public Defender Service. Plaintiffs' lawsuit challenges the system by which the Superior Court selects court-appointed attorneys.

During each year of my four-year tenure at the Office of the Corporation Counsel, on average, approximately 1500 new lawsuits were filed against the District of Columbia. It is the responsibility of the Office of the Corporation Counsel to represent the District of Columbia and its agencies in all legal matters.

From 1994 to 1995, I was the lead counsel for the District of Columbia for the remedy implementation phase of the *LaShawn A. v. Barry* class action lawsuit against the District's child welfare agency.

I was the complaining witness in a simple assault case in Prince George's County, Maryland. The case was dismissed at trial for lack of jurisdiction. To the best of my recollection the case was in the Circuit Court of Prince George's County in 1993. I do not recall the exact date.

24. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.

No. None of which I am aware.

II. POTENTIAL CONFLICTS OF INTEREST

1. Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?

Since 2000 I have been an Associate Judge on the D.C. Superior Court. My appointment to the D.C. Court of Appeals would require me to sever ties with all of my trial cases.

2. Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.

D.C. Court of Appeals Judges are eligible to participate in the same Retirement and Deferred Compensation Plans that I currently participate in as an Associate Judge on the D.C. Superior Court.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.

I have no investments, obligations or liabilities that could cause a potential conflict of interest. The only financial investments I have are: 1) Fidelity Mutual Funds and IRA account; 2) T.Rowe Price Mutual Fund; 3) Federal Thrift Savings Plan (however, I am no longer eligible to pay into this plan since becoming an Associate Judge; 4) ING Deferred Compensation Program (through the Court); 5) AIM Investment fund. My husband was a former active duty Military Officer and he is still in the reserves. He is eligible to receive a military retirement in addition to his court retirement.

My husband Robert R. Rigsby is currently an Associate Judge on the D.C. Superior Court. As a Judge on the D.C. Court of Appeals, I would recuse myself from my husband's cases.

4. Describe any business relation, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest.

None.

5. Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy.

None.

6. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.

I do not have any plans, commitments or agreements to pursue outside employment. However, I would consider teaching Law School if an appropriate opportunity were presented and my schedule and responsibilities

as an Appellate Judge permitted.

7. Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.

See response to question # 3 above.

8. If confirmed, do you expect to serve out your full term?

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11-1501(b), as amended.

1. Are you a citizen of the United States?

Yes.

2. Are you a member of the bar of the District of Columbia?

Yes.

3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.

Yes. I was admitted to the District of Columbia Bar on May 17, 1989.

4. If the answer to Question 3 is no--

a. Are you a professor of law in a law school in the District of Columbia?

Not applicable.

b. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?

Not Applicable.

c. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?

Yes. There is a special category of membership for judges.

d. Upon what grounds is that eligibility based?

Judicial Membership

5. Are you a *bona fide* resident of the District of Columbia?

Yes.

6. Have you maintained an actual place of abode in such area for at least five (5) years?
Yes.

7. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

No.

8. Have you been a member of either of these Commissions within the last 12 months?

No.

9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.

My original Judicial Nomination Commission questionnaire is included in Attachment F to this Questionnaire. My original application was filed with the Judicial Nomination Commission in 1999 when I applied for my current Superior Court Seat. I filed a supplemental application in March 2005 when I applied for a previous vacancy on the D.C. Court of Appeals and I filed a further supplemental application in February 2006 for this current vacancy on the D.C. Court of Appeals. I have included each of these applications as part of Attachment F.

AFFIDAVIT

I Anna Blackburne-Rigsby, being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Anna Blackburne-Rigsby
June 2, 2006

SUBSCRIBED and SWORN TO before me this 2nd day of June, 19 2006.

Notary Public

The District of Columbia: ss
subscribed and sworn to before me
this 2nd day of June 2006

Lisa Renee Johnson
Notary Public, DC
My commission expires 10/14/2006

U.S. Senate Committee on Homeland Security and Governmental Affairs
Statement of
Phyllis D. Thompson
Nominee for Associate Judge of the District of Columbia Court of Appeals
July 11, 2006

Mr. Chairman and members of the Committee:

I am grateful for this opportunity to appear before the Committee today. I want to thank President Bush for having nominated me to serve on the D.C. Court of Appeals. I am deeply honored to have been selected for this high position.

I also thank the Committee for holding this hearing today during this very busy period. The Committee staff have been extremely helpful to me in navigating the confirmation process and have worked diligently in collecting and reviewing the information pertinent to the Committee's consideration of my nomination. I very much appreciate their work, and want particularly to thank Ms. Jennifer Hemingway for her assistance and courtesy.

Let me also express my gratitude to my family for their constant love and support; to my professional colleagues, from whom I have learned so much, for making it possible for me to do the array of work that has helped to prepare me for the position for which I have been nominated; and to the D.C. Judicial Nomination Commission for the tremendous time and hard work it devotes to identifying candidates for judicial positions in the District and for its confidence in me.

I would welcome the opportunity to be a public servant for my native District of Columbia by serving as a judge on the D.C. Court of Appeals. I pledge that, if confirmed, I will apply my skills energetically and diligently to help advance the work of the Court. I also pledge that, if confirmed, I will treat all litigants with courtesy, respect and fairness, and that I will approach all matters with the impartiality and thoughtful deliberation that are necessary to maintain the public's faith in and respect for this high institution.

Thank you again for the chance to be here today and for your consideration of my nomination. I welcome any questions that the Committee may have and will do my best to answer them.

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

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

   Phyllis D. Thompson

2. **Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

   U.S.A.

3. **Current office address and telephone number.**

   1201 Pennsylvania Avenue, N.W., Washington, D.C. 20004
   202-662-5668

4. **Date and place of birth.**

   October 1, 1952 in Washington, D.C.

5. **Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

   I am married but have lived apart from my husband for many years. We are *de facto* separated, but are not legally separated.

   My husband's name is Elliot O. Famutimi. He is currently unemployed.

6. **Names and ages of children. List occupation and employer's name if appropriate.**

   Emily O. Famutimi, age 24. Emily will graduate from the Harvard Law School on June 8, 2006. She will be an associate at the law firm of Cravath, Swaine & Moore, New York, New York, beginning in October 2006.

   Elinor O. Famutimi, age 20. Elinor is a drama student at Tisch School of the Arts, New York University, where she has just completed her sophomore year.

7. **Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**

The National Law Center, The George Washington University, Fall 1978 - May 1981
J.D. with High Honors, 1981

Summer coursework in theology at The Catholic University of America, 1975

Princeton University, Fall 1974 - May 1977
M.A. in Religion (Ethics), 1976 (thereafter continuing as Ph.D. candidate)

Columbian College, The George Washington University, Fall 1970 - May 1974
B.A. in Anthropology, with distinction, May 1974

LaReine High School, Suitland, Maryland, 1967-70. High school diploma, June 1970

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

During the Spring of 1997, I was an Adjunct Professor at Georgetown University Law Center, where I supervised a student research paper in the area of health care law. The address is 600 New Jersey Avenue, N.W., Washington, D.C. 20001.

During the 1977-78 academic year, I was a full-time instructor in the Department of Theology at Georgetown University. I taught the basic freshman theology course ("The Problem of God") and two sections of a course entitled "Christian Ethics and Modern Life." During the spring semester of 1979 and during the 1979-80 and 1980-81 academic years (*i.e.*, while I was in law school), I continued to teach at Georgetown as a part-time lecturer, teaching one section of the ethics course each semester. The University's address is 37th and O Streets, N.W., Washington, D.C. 20057.

While a graduate student during 1975 and 1976, I was a teaching assistant in the Department of Religion at Princeton University. The address is 1879 Hall, Princeton, New Jersey 08544.

During the summer of 1974, I directed a summer enrichment program for children at St. Luke's Catholic Church, 4925 East Capitol Street, S.E., Washington, D.C.

9. 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.

I won full academic scholarships to the George Washington University for both college and law school and also received a full-tuition fellowship from Princeton University for graduate study.

In college, I was elected to Phi Beta Kappa during my junior year and was senior class valedictorian (an honor for which I was chosen based on my high grade point average and the results of a public speaking competition). I graduated "With Distinction."

In law school, I was elected to the Order of the Coif and was selected for membership on *The George Washington Law Review*. I graduated with "High Honors."

The D.C. Bar Public Service Activities Corporation Landlord-Tenant Task Force, of which I was co-chair, received the 1999 D.C. Bar award for "Best Bar Committee."

During 2000-2001, I chaired the School Outreach Project that the D.C. Circuit Historical Society conducted in March 2001 as part of the celebration of the bicentennial of the courts. This entailed oral arguments, before federal District Court judges, by local high school students who had been coached by volunteer lawyers that I recruited. The arguments were based on reported decisions by courts in the D.C. Circuit, which I selected for their relevance to issues immediately affecting school-age children and then excerpted for study by high school classes. For this work, the U.S. District Court for the District of Columbia presented me with a Certificate of Appreciation for significant contributions to the bicentennial celebration.

I was a selected to be a member of D.C. Fellows of the American Bar Foundation.

I have received plaques or certificates of appreciation from a number of *pro bono* clients, including the Washington Child Development Council, the Capitol Hill Montessori School, and the Southern Homes and Gardens Cooperative Association (formerly the Capitol View Public Housing Resident Council).

~~10.~~ Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.

Covington & Burling law firm - partner since 1989
Union Station Redevelopment Corporation - Corporate Secretary
Washington International School - Trustee
The Atlas Performing Arts Center - Director
Washington Legal Clinic for the Homeless - Director

The Ambassador Baptist Church Christian School - Trustee
DC Appleseed Center for Law and Justice - Director
Covington & Burling Public School Project, Inc. - Director
Council for Court Excellence - Director
Woodley House, Inc. - former Director
D.C. Circuit Historical Society - former Director
EagleBank - former Director

11. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.

D.C. Bar Board of Governors, 1998-2004; Finance, Budget and Governance Advisory committees
D.C. Bar Public Service Corporation Landlord Tenant Task Force - co-chair, 1994-98
D.C. Bar District of Columbia Affairs section - member of Steering Committee, 1985-86
D.C. Board of Appeals and Review - legal member and vice-chair, 2001-04
D.C. Court of Appeals Committee on Admissions, 2003-present

12. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

Lawyers Club of Washington
D.C. Fellows of the American Bar Foundation

To my knowledge, neither of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.

D.C. Court of Appeals, December 18, 1981
United States District Court for the District of Columbia, March 7, 1983
United States Court of Appeals for the D.C. Circuit, March 1, 1984
United States Court of Appeals for the Fourth Circuit, October 25, 1989
United States Court of Appeals for the Fifth Circuit, October 13, 2005

United States Court of Appeals for the Sixth Circuit, July 16, 1990
United States Court of Appeals for the Ninth Circuit, May 15, 1996
United States Court of Appeals for the Tenth Circuit, July 13, 1993
United States Court of Federal Claims, March 4, 1999

14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.

Thompson, P. and Burke, S., "Analysis Has Its Privileges: Compliance Reviews May Be Protected from Discovery," *Legal Times*, March 22, 1999

Thompson, P. and Bernstein, Caryl, *Final Report of the D.C. Bar Public Service Corporation Landlord Tenant Task Force*, August 1998.

Thompson, P.; Chollet, D.; and the DC Appleseed Center for Law and Justice, *CareFirst: Meeting Its Charitable Obligation to Citizens of the National Capital Area*, December 6, 2004.

15. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.

I have not made any formal speeches within the last five years. (Over the years, I have made numerous "legal update" type presentations on federal health and welfare program topics before various groups, including the Conference of State Medicaid Directors, the American Association of Public Welfare Attorneys, the National Case Mix Conference, the National Association of Reimbursement Officers, the National Association of State Mental Health Program Directors - Legal Division, the National Academy of State Health Policy, and the Pharmaceutical Research and Manufacturers Association. I did not have a formal text for any of these and do not have copies of my remarks.)

16. Legal career.

A. Describe chronologically your law practice and experience after graduation from law school, including:

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

I did not serve as a law clerk to a judge.

(2) Whether you practiced alone, and if so, the addresses and dates;

I have not practiced alone.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

Covington & Burling, 1201 Pennsylvania Avenue, N.W., Washington, D.C. 20004. Associate, January 1982 - September, 1989; partner, October 1989 - present.

Neighborhood Legal Services Program, 1325 H Street, N.E., Washington, D.C. (on loan from Covington & Burling), March - October 1984.

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

From January 1982 until 1988, my work in whole or in part focused on regulatory advice to bank holding companies and financial institutions.

During 1983, I began doing some real estate work for about a year. I have continued work for one client from that era, Union Station Redevelopment Corporation, a not-for-profit corporation for which I serve as General Counsel and Corporate Secretary.

Since December 1984, my practice has focused primarily on work relating to federal health and welfare programs, including Medicaid, Medicare, Title IV-E foster care, and other federal grant programs, and federal administrative law. My practice involves both advisory/ regulatory work and administrative and federal and state court litigation on behalf of state health and welfare agencies and human services consulting firms.

Throughout my career at Covington & Burling, I have done a variety of *pro bono* legal work. This has included work such as representation of individuals seeking Social Security disability benefits, representation of a public housing tenants' group in their efforts to achieve homeownership of their units, representation of the National Law Center on Homelessness and Poverty in McKinney Act litigation, representation of the plaintiff class in litigation relating to the provision of community mental health benefits in the District, and legal analysis and drafting of proposed legislation for the DC Appleseed Center for Law and Justice.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

As I indicated above, my practice has focused primarily on work relating to federal health and welfare programs, including Medicaid, Medicare, Title IV-E foster care, and other federal grant programs. Typical state and local government clients have been the New Jersey Department of Human Services, the California Department of Developmental Services, the Louisiana Division of Administration, the Kansas Department of Social and Rehabilitation Services, the Ohio Department of Job and Family Services, the Nebraska Health and Human Services System, the North Carolina Department of Health and Human Services, the County of San Diego, and the Chief Probation Officers of California. Typical human services consulting firm clients have been Public Consulting Group, Copeland Glenn & Associates, Deloitte Consulting, the Institute for Human Services Management, and MAXIMUS.

D. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

I have been engaged in federal and state court and administrative litigation steadily since 1984 and have prepared countless briefs and motion papers. However, the frequency of my court appearances has varied over the years. In my first two years of practice, I did regulatory advisory work exclusively and did not appear in court at all. During 1984, when I was on loan from Covington & Burling to the Neighborhood Legal Services Program, I appeared in court frequently (I would say at least three or four times each month), primarily in the Landlord-Tenant branch of the D.C. Superior Court. During that year, I also argued an appeal before the D.C. Court of Appeals. During 1991, I first-chaired a month-long trial in the federal District Court for the Western District of Washington and thus was in court daily; I also argued assorted motions relating to the same matter during 1990.

Over the rest of my career, my court appearances have been occasional -- on average, once a year. These have included an oral argument before the New Jersey Superior Court Appellate Division in 2006; an argument before the U.S. Court of Appeals for the D.C. Circuit in November 2005; arguments before the U.S. District Court for the District of Columbia in 2002 and 2003; arguments before the U.S. District Court for the District of Columbia and the District Court of Shawnee County, Kansas in 2000; an

argument before the United States Court of Federal Claims in 1999; an argument before the United States Court of Appeals for the Ninth Circuit in 1997; an argument before the U.S. District Court for the Northern District of California and a three-day preliminary injunction hearing before the U.S. District Court for New Jersey in 1995; an argument before the United States Court of Appeals for the Tenth Circuit in 1994; an argument before the U.S. District Court for the Western District of Texas in 1992; an argument before the U.S. Court of Appeals for the Fourth Circuit in 1989; and an argument before the U.S. District Court for the District of Columbia in 1987.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);

60%

(b) State courts of record (excluding D.C. courts);

10%

(c) D.C. courts (Superior Court and D.C. Court of Appeals only);

25%

(d) other courts and administrative bodies.

5%. I should clarify that while I practice regularly before the U.S. Department of Health and Human Services Departmental Appeals Board (DAB), most matters are submitted on written briefs only, and I have only a few times appeared in person before the DAB.

(3) What percentage of your litigation has been:

(a) civil;

100%

(b) criminal.

0%

(3) What is the total number of cases in courts of record you tried to

verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

Other than cases decided on motion, I have tried one case to judgment in a court of record. I was lead counsel.

I have tried at least eight cases to judgment on dispositive motions in courts of record. In each case, I was lead counsel.

I have tried numerous cases to judgment before administrative bodies, including the Department of Health and Human Services Departmental Appeals Board, the Administrative Hearing Section of the Kansas Department of Social and Rehabilitation Services, the D.C. Rental Housing Commission, the Maryland Office of Administrative Hearings, and the New Jersey Office of Administrative Law.

(4) What percentage of these trials was to

(a) a jury;

None.

(b) the court (include cases decided on motion but tabulate them separately).

All nine cases that I identified above (cases tried to judgment in a court of record) were tried before the court without a jury.

17. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and 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 court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.

a. For several years I have represented the State of New Jersey Medicaid agency (New Jersey Department of Human Services, Division of Medical Assistance and Health Services) in hospital rate appeal litigation that culminated recently with the decision in *In the Matter of Hospitals' Petitions for Adjustment of Rates for Reimbursement of Inpatient Services to Medicaid Beneficiaries*, 383 N.J. Super. 219, 891 A.2d 641 (N.J. App. Div. ,

Feb. 17, 2006). In these consolidated appeals, hospitals challenged decisions by the State agency denying their requests for increases in their Medicaid rates. They contended, among other things, that in determining whether rate adjustments were warranted, the State should not be permitted to take into account the many millions of dollars that the State pays to hospitals as so-called Medicaid "disproportionate share" payments, *i.e.*, extra Medicaid payments that the State makes to hospitals that serve the largest numbers of Medicaid and other low-income patients. The Appellate Division (Judges Edith Payne, Jack Sabatino and Francine Axelrad) rejected the hospitals' contentions and ruled in favor of the State agency. The case was significant because it put to rest efforts by the hospitals to undermine the prospective payment system that the State put in place over ten years ago to help contain hospital costs and rein in Medicaid spending, and brought an end to administratively burdensome litigation entailing hundreds of separate rate appeals. I wrote the appellate briefs (as well as earlier summary disposition briefs submitted to the New Jersey Office of Administrative Law) and presented oral argument before the Appellate Division in January 2006. My co-counsel was Steven Scher, Senior Deputy Attorney General, R.J. Hughes Justice Complex, P.O. Box 112, Trenton, New Jersey 08625, telephone 609-633-8197. Opposing counsel were Paul Murphy of Kalison, McBride, Jackson & Murphy, 25 Independence Boulevard, 4th Floor, Warren, New Jersey (telephone 631-439-6874); and Murray Klein and Steven B. Roosa of Reed Smith LLP, Princeton Forrestal Village, 136 Main Street, Princeton, New Jersey 08540 (telephone 609-987-0050).

b. I represented the plaintiff/appellee in a case captioned *Nebraska Dep't of Health and Human Services v. U.S. Dep't of Health and Human Services,* 340 F. Supp. 2d 1, *remanded,* 435 F. 3d 326 (D.C. Cir. 2006). The case involved the federal government's disapproval of a Nebraska cost allocation plan amendment under which the State proposed to charge all of the costs of training its foster care workers to the Title IV-E foster care program. The U.S. Department of Health and Human Services (HHS) Division of Cost Allocation (DCA) contended that the State must instead allocate the costs between Title IV-E and other child welfare programs in accordance with a policy announced by the HHS Administration for Children and Families (ACF) in a series of informal transmittals that conflicted with an earlier ACF regulatory interpretation. Nebraska appealed that decision to the HHS Departmental Appeals Board and thereafter to the U.S. District Court for the District of Columbia. The district court (The Honorable Emmet G. Sullivan) agreed that the ACF training-cost allocation policy was a binding rule that is invalid because it was adopted without notice and comment. The district court also found that HHS had disregarded the requirements of the Administrative Procedure Act (APA) by changing its "authoritative interpretation" of the Title IV-E regulations without the opportunity for notice and comment. The U.S. Court of Appeals for the D.C. Circuit did not review or disturb these aspects of the district court's decision but issued a ruling limiting the relief to Nebraska (instead of the all affected states) and remanded the matter for DCA to act on Nebraska's proposal without applying the procedurally invalid ACF policy. The D.C. Circuit panel included Chief Judge Douglas H. Ginsburg and Judges Merrick Garland and Janice Rogers Brown. The case was significant because it affirmed, in the context of a large-dollar joint federal/state welfare

program, that states should be able to rely on regulatory interpretations that have not been rescinded through APA rulemaking.

I wrote the summary judgment papers submitted to the District Court and the appellate briefs submitted to the D.C. Circuit in this matter. I also argued the matter in both the district court and the appeals court. Opposing counsel in the District Court was Claire Whitaker, Assistant United States Attorney, United States Attorney's Office, Judiciary Center Building, 555 Fourth Street, N.W., Washington, D.C. 20530 (telephone 202-514-7137). Opposing counsel in the D.C. Circuit was Wendy Keats, Department of Justice, Civil Division, Room 7224, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-0001 (telephone 202-514-0265).

c. *Chief Probation Officers of California v. Shalala*, 118 F.3d 1327 (9th Cir. 1997). This case was a challenge to a Department of Health and Human Services ("HHS") transmittal that announced a change in HHS policy regarding the permissible uses of federal Emergency Assistance ("EA") grant funds. A number of states (including California, through its County Probation Departments) were using EA funds to pay for juvenile justice services pursuant to HHS-approved state plans. The challenged transmittal rescinded the HHS approval. The lawsuit alleged that the policy change was invalid since it represented a legislative rule that was adopted without compliance with the notice-and-comment rulemaking requirements of the federal Administrative Procedure Act. The case was important not only as an effort to protect the availability of EA funding for the particular programs at issue, but also as an effort to preserve states' ability to rely on their federally-approved state plans as a basis for budgeting for social welfare programs. The Ninth Circuit upheld the HHS action, holding that the changed policy represented a change in the agency's interpretation of the governing statute, which could be accomplished without rulemaking.

I represented the plaintiff/appellant Chief Probation Officers as lead counsel. I drafted the complaint, which was filed in December 1985; wrote the preliminary and summary judgment motions and accompanying affidavits and argued the motions before the Honorable D. Lowell Jensen of the U.S. District Court for the Northern District of California (in case No. CV-95-04644-DLJ); wrote the appellate brief; and argued orally before the U.S. Court of Appeals for the Ninth Circuit. The Ninth Circuit panel consisted of retired Supreme Court Associate Justice Byron R. White, The Honorable William C. Canby, Jr., and the Honorable Pamela Ann Rymer. Bruce G. Forrest of the U.S. Department of Justice, Washington, D.C., briefed and argued on behalf of the appellee, HHS Secretary Shalala. Mr. Forrest's address and telephone number: Department of Justice, Civil Division, Washington, D.C. 20530, 202-332-9607.

d. *United Hospitals Medical Center v. State of New Jersey*, 793 A.2d 1 (N.J. App. Div. 2002). This case was a challenge by several hospitals in New Jersey to regulations that the state Medicaid agency had adopted in 1995 and 1997, making changes to its methodology for reimbursing hospitals for services provided to Medicaid-eligible individuals. I wrote the briefs on behalf of the State respondent (the New Jersey

Department of Human Services, Division of Medical Assistance and Health Services), and the case was decided by a panel consisting of the Honorable Judges Stephen Skillman, John Wallace, Jr. and Philip Carchman of the New Jersey Superior Court Appellate Division, without oral argument. The Appellate Division reasoned that the state had considerable latitude in determining what the costs are that must be reimbursed by efficiently and economically operated hospitals. It ruled that the reimbursement rates provided under the state's 1995 and 1997 regulations were reasonable and adequate. The case was significant because it enabled the state to maintain its payment system aimed at promoting efficiency and economy in hospital operations. Opposing counsel were Paul Murphy of Kalison, McBride, Jackson & Murphy, 25 Independence Boulevard, 4th Floor, Warren, New Jersey (telephone 631-439-6874); and Murray Klein of Reed Smith Shaw and McClay (now Reed Smith LLP), Princeton Forrestal Village, 136 Main Street, Princeton, New Jersey 08540 (telephone 609-987-0050).

e. I represented the plaintiff in *National Law Center on Homelessness & Poverty v. U.S. Veterans Administration*, 98 F. Supp. 2d 25 (D.D.C. 2000), a suit that challenged the General Services Administration ("GSA") position that GSA was authorized to sell certain federal properties to states and municipalities without first complying with the McKinney Act, which established procedures by which surplus federal property must be made available to qualified applicants for uses to assist homeless individuals. The court agreed that the properties in question were subject to the McKinney Act and enjoined GSA from transferring them without first complying with the procedures set forth in the McKinney Act. I edited and supervised the writing of the briefs in this matter, which was significant because it "plugged" what otherwise could have been a substantial loophole in the legislation by which Congress sought to make excess federal property available to assist the homeless. Opposing counsel in this matter was W. Scott Simpson, Department of Justice, Washington, D.C. (telephone 202-514-3495).

(In the enclosed questionnaire responses that I submitted to the Judicial Nomination Commission, I described additional significant litigation, including *Kansas Health Care Association, Inc. v. Kansas Department of Social and Rehabilitation Services*, 31 F.3d 1536 (10th Cir. 1994); *Miller v. Hartman,* 911 F.2d 723 (4th Cir. 1990); *In re AFCARS Penalties Imposed on California, Florida, Kansas, Maryland, Minnesota, New York, North Carolina, Ohio, South Dakota, Texas, Virginia, and Wisconsin*, Department of Health and Human Services Departmental Appeals Board Docket Nos. 2000-59 and A-2000-61; and *Walker v. Smith,* 499 A.2d 446 (D.C. 1985).)

18. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).

I have been involved in a number of significant legal activities that did not involve litigation or that did not proceed to trial. I describe below several such activities that I have pursued:

- For several years beginning in the 1990's, I represented a group of public housing tenants whose goal was homeownership. On their behalf I negotiated with District of Columbia housing authority representatives, assisted the tenants' association in applying for federal HOPE grant funding to finance renovations to the properties, prepared the organizational documents to establish a cooperative association, and negotiated and prepared documentation to effect the transfer of the townhouse units to the residents' cooperative association (for a nominal purchase price). The Capital View public housing complex became the Southern Homes and Gardens Cooperative Association, and in the process the residents developed a sense of empowerment and a tremendous sense of pride in the upkeep and betterment of their community.

- Since 2001 I have worked with the DC Appleseed Center for Law and Justice, Inc., on a project known as the CareFirst project. CareFirst is the trade name of the local Blue Cross/Blue Shield franchisee, chartered by Congress as Group Hospitalization and Medical Services, Inc. (GHMSI). I began work on the project when GHMSI and its affiliates were proposing to convert to for-profit status and to be acquired by a large for-profit insurance company. I worked with D.C. Appleseed to analyze a variety of issues raised by the proposal, including whether the proposed conversion and acquisition were consistent with GHMSI's charter mission and with the requirements of District law and how conflict-of-laws issues might be resolved; to develop legislation to guide the conversion review process; to formulate discovery requests to assist in an analysis of the likely impact of the proposed conversion and acquisition; and to analyze how any moneys paid into a public trust upon a conversion and acquisition should be allocated between the affected jurisdictions. Once the proposed conversion and acquisition were no longer on the table (following a disapproval by the Maryland Insurance Commissioner), my work focused on an analysis of GHMSI's obligations to the community as an entity whose federal charter declares it to be a charitable and benevolent institution. My analysis, which is contained in a December 2004 DC Appleseed report entitled *CareFirst: Meeting Its Charitable Obligation to Citizens of the National Capital Area*, concluded that GHMSI has a legal obligation to support initiatives, including initiatives benefiting the community beyond its policyholders, to promote and improve the public health within its

service area. I have continued to work with DC Appleseed to develop proposed legislation that will detail more specifically what that obligation entails and to provide enforcement mechanisms to ensure that the company meets its legal obligation to the community.

- Representing 30 state health and welfare agencies along with a team of other lawyers, I played a lead role in fashioning a formula for resolving through mediation a dispute between the states and the U.S. Department of Health and Human Services Division of Cost Allocation about the reallocation of certain eligibility determination costs between the Medicaid, Food Stamps and (former) AFDC programs, pursuant to section 502(a)(2) of the Agricultural Research, Extension and Education Reform Act of 1998. I led a team of lawyers who interviewed state agency staff about the particulars of their cost allocation methodologies, developed a settlement proposal that was presented to federal officials, and made presentations at mediation sessions conducted by the HHS Departmental Appeals Board. We were successful in reaching a mediated solution.

- During the mid-1990's, I co-chaired the D.C. Bar Public Service Activity Corporation's Landlord-Tenant Task Force. The Task Force studied the operations of the Landlord-Tenant Branch of the D.C. Superior Court, including through in-court observations and interviews with judges, practitioners and litigants, and developed recommendations for changes in the court procedures and rules to improve the access to justice for both tenants (the overwhelming majority of whom are unrepresented) and landlords. The results of the Task Force's work were published in 1998 a report entitled *Final Report of the D.C. Bar Public Service Corporation Landlord Tenant Task Force.*

- In the late 1980's I represented the State of Alaska Department of Health and Social Services in administrative litigation relating to the rates that the state paid to nursing homes that served Medicaid-eligible patients. The Health Care Financing Administration contended that the rates were too high (in excess of the so-called federal "upper payment limit") and threatened to withhold the matching share of federal funding. I worked with the state to develop evidence showing that higher costs in Alaska justified the higher rates and developed a formula for an Alaska-specific upper payment limit. The federal government accepted that formula and the litigation was resolved through a settlement agreement favorable to the state.

19. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.

I have not held judicial office. (Please note that I am enclosing four copies of my responses to the D.C. Judicial Nomination Commission questionnaire, to which I attached copies of decisions I rendered as a member of the D.C. Board of Appeals and Review.)

A. List all court decisions you have made which were reversed or otherwise criticized on appeal.

N/A

20. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).

No; none.

21. Political activities and affiliations.

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

  None

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

  None

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of $50 or more.**

  During 2005, I gave $250 to the campaign of Leecia Eve, who was seeking the Democratic nomination for Lieutenant Governor of New York.

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

No.

23. **Have you or any business of which you are or were a officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

No.

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

None.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.

4. **Describe any business relationship, dealing, or financial transaction which you have**

had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

From time to time I have helped clients draft legislation to be forwarded for consideration by their congressional delegations or by the Council of the District of Columbia. Most recently, I have drafted legislation on behalf of the DC Appleseed Center for Law and Justice that would require the local Blue Cross Blue Shield affiliate, Group Hospitalization and Medical Services, Inc. to meet its obligations to the community as a charitable and benevolent organization. I also met on a couple of occasions with DC Appleseed representatives and Councilmember Jim Graham to advocate introduction of the draft legislation. In addition, last year I drafted legislative language that would have provided relief from certain federal disallowances to the Louisiana Division of Administration, in light of the devastating financial burden caused by Hurricane Katrina.

Also during the last ten years, I drafted comments on behalf of a coalition of state child welfare agencies and met with representatives of the U.S. Department of Health and Human Services ("HHS") to advocate changes in policy regarding Title IV-E funding for children living in so-called "kinship" foster homes. Similarly, I drafted comments on behalf of a coalition of State psychiatric hospitals and met with HHS representatives to advocate modifications in the way that the Medicare Outpatient Hospital Prospective Payment System applies to such hospitals.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

No.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

N/A

8. **If confirmed, do you expect to serve out your full term?**

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section I I - 150 1 (b), as amended.

1. **Are you a citizen of the United States?**

   Yes.

2. **Are you a member of the bar of the District of Columbia?**

   Yes.

3. **Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.**

   Yes. I was admitted to practice on December 18, 1981.

4. **If the answer to Question 3 is "no" --**

   A. **Are you a professor of law in a law school in the District of Columbia?**

   B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**

   C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**

   D. **Upon what grounds is that eligibility based?**

   N/A

5. **Are you a bona fide resident of the District of Columbia?**

   Yes.

6. **Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.**

   Yes.

7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**

   No.

8. **Have you been a member of either of these Commissions within the last 12 months?**

   No.

9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.

Four copies of my District of Columbia Judicial Nomination commission questionnaire (and of an updated biography that I sent to the Commission in February 2006) are enclosed.

AFFIDAVIT

Phyllis D. Thompson, being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Phyllis D. Thompson

SUBSCRIBED and SWORN TO before me this 2 day of June 2006.

Wanda Walker
Notary Public

Wanda Walker
Notary Public, District of Columbia
My Commission Expires July 31, 2010

Prepared Remarks of Jennifer M. Anderson

Nominee to be Associate Judge, Superior Court of the District of Columbia

July 11, 2006

Thank you very much Senator Voinovich. It is an honor to appear before this Committee this morning. And thank you Delegate Holmes Norton for your kind remarks. More than thirty-five years ago, my parents, Frank and Brid Anderson, packed up their five children and moved 3,000 miles across the ocean from Dublin, Ireland to this country. They did so because they wanted to provide their children with the opportunities that they themselves did not have and which they believed existed in America. In looking back, that move was not an easy one and my parents made many sacrifices so that their kids could have a better life. And I clearly have benefitted from their sacrifices. So it is with particular pride that I sit before you today having been nominated by the President of the United States for a Associate Judge of the Superior Court of the District of Columbia.

I would like to thank President Bush for giving me this wonderful opportunity by nominating me for this position. Having practiced criminal law in Superior Court for the past fifteen years, I have a deep affinity for the court and hope that if I am fortunate enough to be confirmed I can make a real contribution. I also would like to thank the Senate staff of the Committee on Homeland Security and Governmental Affairs for their work on getting my nomination before this Committee. In particular, I would like to thank Jennifer Hemingway who has been extremely helpful during this process. I would also like to thank White House counsel staff for their assistance in preparing me to appear before this Committee

Finally, I would like to take the opportunity to introduce my family who are here today. First, my mother and father, Frank and Brid Anderson, my sisters Colleen and Noreen and my brother Dermot, his wife Karen and their daughter Lena. In addition, I would like to recognize the U.S. Attorney for the District of Columbia Ken Wainstein and a number of my friends and colleagues who are here from the U.S. Attorney's Office and Metropolitan Police Department homicide detectives with whom I have worked over the last ten years.

I am very excited about the opportunity to possibly serve as an Associate Judge of the Superior Court of the District of Columbia and am happy to answer any questions you have.

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS COMMITTEE ON GOVERNMENTAL AFFAIRS, UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

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

   Jennifer Mary Anderson

2. **Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

   Yes. I am a naturalized citizen. See Attachment A for a copy of my United States passport.

3. **Current office address and telephone number.**

   U.S. Attorney's Office
   555 4th Street, N.W.
   Room 9106
   Washington, D. C. 20530
   202-305-1373

4. **Date and place of birth.**

   May 28, 1959 Dublin, Ireland

5. **Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

   Single.

6. **Names and ages of children. List occupation and employer's name if appropriate.**

   None.

7. **Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**

   Law School Columbus School of Law
   Catholic University of America
   Washington, D.C.
   1981-1984

Juris Doctor

College	Mount Saint Mary's College Emmitsburg, MD 1977-1981 B.A. - English.
High School	Seton High School Baltimore, MD

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

Donovan, Leisure, Newton and Irving
Washington, D.C.
Summer of 1983
Summer Associate

United States Attorney's Office
for the District of Columbia
555 4th Street, N.W.
Washington, D.C.
Summer of 1982
Summer intern

Garvin's Comedy Café
Connecticut Avenue (now closed)
Washington, D.C.
Summer of 1982
Waitress

Howard Johnsons' Restaurant
Reistertown Road (now closed)
Baltimore, MD
Summer of 1981 and school holidays
Waitress

Steak and Egg Kitchen
Reistertown Road (now closed)

Baltimore, MD
Summer of 1981 and school holidays
Waitress and short order cook

9. **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.**

2005 - Top 100 Irish Americans, Irish America magazine

2002 - Atlantic Fellowship in Public Policy, British Council, England

2000 - Director's Award, Department of Justice - a nationwide award for superior performance in a specific case.

2000 - Senior Litigation Counsel, U.S. Attorney's Office - a position which recognizes superior trial skills.

2000 - Special Achievement Award (Civil Rights), Department of Justice

1999 - Special Achievement Award (Community Prosecution), U.S. Attorney's Office

1998 - Commendation from the Bureau of Alcohol, Tobacco, & Firearms

1998 - Commendation from the Federal Bureau of Investigation

1997 - Special Achievement Award (Homicide), U.S. Attorney's Office

1995 - Special Achievement Award (Narcotics), U.S. Attorney's Office

1995- Commendation from the Metropolitan Police Department Third District Drug Enforcement Unit - Recognition for leadership, commitment, and dedication to "Georgio" Investigation

1993 - Special Achievement Award (Felony Trial), U.S. Attorney's Office

1984 -National Trials Competition
First Place – Intramural Division
Third Place – Eastern Regional Division

1983 - Winner - Vernon X. Miller Appellate Competition

1981- Delta Epsilon Sigma Honor Society, Mt. St. Mary's College

1981 - Lamda Iota Tau Honor Society, Mt. St. Mary's College

1977 - 1981 - Partial academic scholarship to Mt. St. Mary's College

1973- 1977 - Partial academic scholarship to Seton High School

10. **Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

None.

11. **Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

Maryland Bar Association
District of Columbia Bar Association
Pennysylvania Bar Association
American Bar Association

12. **Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

Mt. St. Mary's President's Council
Mt. St. Mary's National Alumni Board
U.S. Attorney's Office DEFY Program
Rockville Musical Community Theater

None of these organizations has formerly or currently discriminated on the basis of race, sex, or religion.

13. **Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

Maryland - February, 1985 – inactive since approximately 1990

Pennsylvania - June, 1985 - active until 1991. I then became inactive.
In order to maintain my membership in the Pennsylvania Bar, I become active for a one-year period every three years. I currently am inactive.

District of Columbia - October, 1985

14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.

None.

15. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.

None.

16. Legal career.

A. Describe chronologically your law practice and experience after graduation from law school, including:

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

I did not serve as a law clerk to a judge.

(2) Whether you practiced alone, and if so, the addresses and dates;

I never had a solo practice.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

Cadwalader Wickersham & Taft
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036
October 1984 - July 1987

Dechert, Price & Rhoads
1717 Arch Street
Philadelphia, PA 19103
July 1987- January 1991

U.S. Attorney's Office, Washington, D.C.
555 4th Street, N.W.
Room 9106

Washington, D. C. 20530
January 1991 - Present

Department of Justice, Civil Rights Division
(On detail from the U.S. Attorney's Office)
National Church Arson Task Force
601 D Street, N.W.
Washington, D.C. 20005
September 1997 - November 1998

Atlantic Fellowship in Public Policy
(On detail from the U.S. Attorney's Office)
London, England
September 2002 - July 2003

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

1984 - 1987 The general nature of my practice during this time period was primarily defense work in the civil context. I also spent a large amount of time working on regulatory matters in the public utility field. I did *pro bono* work representing an indigent prisoner in a habeas action. This matter went as far as the United States Court of Appeals for the District of Columbia where it was set for an *en banc* argument.

1987 - 1991 The general nature of my practice during this time period was again defense work. I spent approximately 60% of my time doing white collar defense and the other 40% doing defense work in civil cases in such fields as insurance, construction litigation, and products liability. I also did a number of *pro bono* cases in which I represented prisoner litigants alleging civil rights violations.

1991 - 1992 The general nature of my practice during this time period was criminal appellate work. I represented the United States in defending criminal convictions. During this period, I had the opportunity to argue over fifteen cases before the United States Court of Appeals for the District of Columbia Circuit and the District of Columbia Court of Appeals.

1992-1994 The general nature of my practice during this time period was criminal trial work. I represented the United States

in the District of Columbia Superior Court in lower level cases such as misdemeanors and less serious felonies.

1994-1995	The general nature of my practice during this time period was conducting grand jury investigations.
1995	The general nature of my practice during this time period was criminal trial work in the United States District Court.
1995-1997	The general nature of my practice during this time period was criminal trial work in both the District of Columbia Superior Court and the United States District Court. I specialized in homicides until 1996. I then joined the Community Prosecution Pilot Project where my practice focused not so much on a type of crime but rather a particular neighborhood.
1997-1998	The general nature of my practice during this time period was criminal trial work in the field of civil rights violations. In particular, I was tasked with investigating church arsons across the country.. The bulk of the year was spent conducting grand jury investigations and appearing in United States District Court related to those investigations.
1998 - 2000	I returned to the Fifth District Community Prosecution Section where I once again specialized in a neighborhood and the violent crimes arising out of that area. I appeared in both the District of Columbia Superior Court and United States District Court.
2000- 2002	I became a deputy chief in the Felony Trial Section. I still spent a considerable portion of my time in court but as a supervisor observing junior lawyers. I also tried homicide cases in the District of Columbia Superior Court.
March, 2002	I became the chief of Homicide/Major Crimes for the Third District. I primarily supervised attorneys and dealt with the police on legal issues relating to homicide and other violent crimes investigations. I maintained a small caseload of active trial cases.
Sept. 2002-Aug. 2003	I did not practice law because I was on a fellowship in London, England.
Aug. 2003 - Oct. 2004	I became the chief of Homicide/Major Crimes for the Fifth District. I primarily supervised attorneys and dealt with the police on legal issues relating to homicide and other violent crime investigations. I

maintained a small caseload of active trial cases.

Oct. 2004 - present	I became the deputy chief of Homicide with primary responsibility for the Third and Fifth Districts. I primarily supervise attorneys and deal with the police on legal issues relating to homicide investigations. I maintain a small caseload of active trial cases.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

1984 - 1987	I typically represented large corporations in complex litigation. My work was concentrated in the fields of aviation law, products liability, and utility regulation.
1987 - 1991	I represented a variety of clients from large corporations to individuals charged with minor to serious felonies. My work was concentrated in the fields of white collar defense, insurance defense, construction litigation, and prisoner civil rights claims.
1991 - present	For the past fifteen years, I have appeared in Superior Court, United States District Court for the District of Columbia as well as other federal courts around the country on behalf of the United States. During that time period, my practice has been exclusively criminal law. For the past ten years, my specialty has been the prosecution of homicide cases.

D. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

2000 - present	Since I became a supervisor, my appearances in court as an advocate have decreased. I still spend a considerable portion of my time in court but as a supervisor observing our junior lawyers. I typically try one or two homicide cases a year. In 2001, while a supervisor, I tried a two-month long homicide case.
Sept. 2002-2003	I did not appear in court at all because I was on a fellowship in London, England.
1998 - 2001	I appeared regularly in Superior Court and District Court.

1997-1998 I appeared regularly in District Courts around the country.

1992 - 1997 I appeared regularly in both Superior Court and District Court.

1991 - 1992 I appeared regularly in both the United States Court of Appeals for the District of Columbia Circuit and the Court of Appeals for the District of Columbia.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);

2003 - 2006 10%

2002 - 2003 0%

2001- 2002 10%

1998 - 2001 50%

1997 - 1998 100%

1996 - 1997 50%

1995 - 1996 100%

1992 - 1995 0

1991 - 1992 50%

1987 - 1991 60%

1985 - 1987 10%

1984 - 1985 100%

(b) State courts of record (excluding D.C. courts);

1987 - 1991 40%

(c) D.C. courts (Superior Court and D.C. Court of Appeals only);

2003 - 2006 90%

2002 - 2003 0

2001 - 2002 90%

1998 - 2001 50%

1997 - 1998 0

1996 - 1997 50%

1992 - 1996 100%

1991 - 1992 50% (D.C. Court of Appeals)

1984 - 1991 0

(d) other courts and administrative bodies.

1985 - 1987 90%

What percentage of your litigation has been:

(a) civil;

From 1984 to 1987, my practice exclusively was civil. From 1987 to 1991, my practice was approximately 40% civil and 60% white collar criminal defense.

(b) criminal.

From 1991 to the present, my practice exclusively has been criminal.

(4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

During my tenure at the United States Attorney's Office, I have tried in excess of 80 cases. The very first case I tried was in a second-chair capacity. I tried one case where I was co-counsel and five cases where I was lead counsel. The remaining cases I tried as sole counsel.

(5) What percentage of these trials was to

(a) a jury;

90%

(b) the court (include cases decided on motion but tabulate them separately).

10%

In addition, I have litigated numerous cases on motion after which the defendant entered a plea of guilty.

17. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and 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 court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.

a. United States v. Carlton Blount ("Wilson High Murders")

Date: February, 2000 - June, 2001
Court: District of Columbia Superior Court
Judge: Russell Canan
Defense Counsel: Anthony Haughton
Claudia Crichlow
Public Defender Service
633 Indiana Avenue, N.W.
Washington, DC
202-824-2388
Represented: United States
Role: Lead counsel
Other government counsel: Margaret Carroll
344 West 72nd Street
Apartment 3I
New York, NY 10023
645-552-5553

On February 8, 2000, shortly after 8:00 p.m., a fistfight erupted in the Wilson High School gymnasium between high school football star Andre Wallace and Carlton Blount. After losing the fight, Blount enlisted the assistance of Jermaine Johnson.

The two went to Blount's home, got a loaded .9mm pistol and hunted down Wallace. After searching for more than two hours, Blount found Wallace and his teenage girlfriend, Natasha Marsh, in front of Marsh's home unloading groceries. Blount shot both teenagers and fled the scene with Johnson.

Both Marsh and Wallace, outstanding students headed to college, had a bright future ahead of them. Their senseless killings caught the attention of the entire city. Indeed, even President Clinton sent condolences and mentioned their deaths in a speech on school violence. The case took nine months to investigate and almost two months to try. The government called over forty witnesses to present what was largely a circumstantial evidence case. Blount was convicted of Murder I (Marsh), Murder II (Wallace), Possession of a Firearm During the Commission of a Crime of Violence (X2), Carrying a Pistol Without a License, and Obstruction of Justice. He was sentenced to 64 years to life imprisonment.

b. United States v. Henry Carter, F1032-96

Date: 1998
Court: District of Columbia Superior Court
Judge: Michael Rankin
Defense Counsel: Nina Masonson
1320 19th Street, N.W.
Suite 200
Washington, D.C. 20036
202-667-2330
Represented: United States
Role: Lead counsel
Other government counsel: Arvind Lal
555 4th Street, N.W.
Washington, D.C. 20530
202-514-7566

In 1995, members of the "Langdon Park Crew" were at war with members of the "Taft Crew". Both crews routinely went into the others neighborhood and shot at each other. October 30, 1995 was one such time. Henry Carter, and three others, drove through the Taft neighborhood looking for someone to shoot. They drove to several areas before they spotted the decedent, Dwayne Crawford, and his friends in the 1800 block of Newton Street, N.E. While the other three shot at the friends, Carter chased Crawford down, stood over him as he struggled in vain to squeeze himself under a truck to hide, and shot him four times in the back. Police later established that

Crawford was not part of the Taft Crew and, in fact, was just an innocent bystander that fateful day.

This case had many complications. Bystanders misidentified three out of the four participants making their correct identification of Carter virtually useless. Police recovered the murder weapon from someone else. The case did not go to trial until four years after the murder. Notwithstanding these challenges, Carter was convicted after a two-week trial of First Degree Murder while Armed and related weapons offense and sentenced to 35 years to life imprisonment.

c. **United States v. John Quillen, et. al.**

Date: 1996 - 1997
Court: United States District Court Iowa
Judge: M.W. Bennett
Defense Counsel: Terry O'Brien
232 Davidson Building
Sioux City, Iowa 51103
712-255-0189
Represented: United States
Role: Lead counsel
Other counsel: Bobbi Berstein
Department of Justice Civil Rights Section
601 D Street, N.W.
Room 5140
Washington, D.C.
202-353-0032

This was a case I prosecuted while on detail to the National Church Arson Task Force. In 1992, the defendants constructed a six-foot high cross, leaned it against the First Baptist Church and set it on fire. Fortunately, a passerby noticed the burning cross and extinguished the fire before any real damage was done.

This is a case of which I am particularly proud. Although local law enforcement received a tip almost immediately after the incident, they did virtually nothing. Four years later, the case was unsolved with not even the basic investigatory work having been conducted. We reopened the investigation, conducted all the witness interviews, and one week before the statute of limitations ran, indicted the culprit with civil rights violations as well as arson under the federal statute. The defendant ultimately pled guilty and received a significant period of incarceration.

d. **United States v. Michael Mason, Clayvon Anderson, & Larry Dancy**

Date: 1996 - 1997
Court: District of Columbia Superior Court
Judge: Harold Dixon
Defense Counsel: Dan Quillin (Michael Mason)
419 7th Street, N.W.
Washington, D.C. 20004
202-289-6262

Bernie Grimm (Clayvon Anderson)
503 D Street, N.W.
Washington, D.C. 20001
202-371-0300

Godwin Oyewole (Larry Dancy)
601 Pennsylvania Avenue, N.W.
Suite 900 South
Washington, D.C. 20004
202-347-7777

Represented: United States
Role: Sole counsel

On November 1, 1995, Thrise and Michele Lewis, two sisters, were found murdered in their northeast home. Thrise's husband, Ronnie Sloan was also shot four times and left for dead. Mr. Sloan recovered but was unable to tell police what happened. Through a trail of circumstantial evidence, police put together a case against the three defendants. The trial, which last four weeks, raised many complicated legal issues including co-conspirator statements, adoptive admissions, and statements against penal interest. All three defendants were convicted of all the charges and received sentences in excess of 100 years to life imprisonment.

e. **United States v. Dennis Davis, Bobby Holton, & Vincent Jones**

Date: 1995
Court: United States District Court for the District of Columbia
Judge: Stanley Harris
Defense Counsel:

Edward Wilhite (Dennis Davis)
325 Pennsylvania Avenue, S.E.
Washington, D.C. 20003

Fran D'Antuono (Bobby Holton)
218 17th Street, S.E.
Washington, D.C. 20003
202-544-6332

Santha Sonenberg (Vincent Jones)
Public Defender Service
633 Indiana Avenue, N.W.
Washington, DC 20001
202-824-2308

Represented: United States
Role: Co-counsel
Other government counsel: Robert Myers (contact information unknown)

This was a six-week trial in United States District Court. All three defendants were charged with a narcotics conspiracy. This was a significant case because Davis terrorized the Barry Farms neighborhood in Southeast. The government was forced to dismiss several homicide cases in which he was charged when key witnesses either were killed (allegedly at Davis' behest) or refused to testify. The police therefore were forced to build a narcotics case which did not rely on civilian witnesses. Davis and Holton were convicted on all counts and sentenced to 30 years to life imprisonment. Vincent Jones was acquitted.

18. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).

United States v. Thomas Sweatt - For over a two-year period, from 2003 to 2005, a serial arsonist terrorized Washington, D.C. metro area. The unknown arsonist set fires in Maryland, Virginia and the District of Columbia. The arsonist typically set fire to single family dwellings in the middle of the night ensuring that they were occupied. The death of at least one elderly woman was attributed to him. At the request of local agencies, the Bureau of Alcohol, Tobacco and Firearms assisted in the investigation of these fires. ATF created a Task Force, along with the Metropolitan Police Department, and the fire departments from all the affected jurisdictions in order to pool resources and information. The United States Attorneys Offices for the District of Columbia and Maryland coordinated law enforcement efforts and provided legal advice to the Task Force. I was responsible for the District of Columbia prosecution.

As part of the investigation, Thomas Sweatt was developed as a suspect. When arrested

on a District of Columbia warrant for arson, Sweatt confessed to being the serial arsonist. Ultimately, he pled guilty to two homicides and multiple arsons in the District of Columbia and a number of arsons in Virginia and Maryland. He received a sentence of life imprisonment without the possibility of parole.

United States v. Lamiek Fortson, Erica Williams & Jovanda Blackson - This is a case on which I am currently working. In June of 2002, Lamiek Fortson and Harry Ellis brutally stomped Gerald Whitfield to death. In May of 2005, the two men went to trial on first-degree murders charges. After a week of deliberation, the trial ended in a mistrial when the jury could not reach an unanimous verdict. Several months later, the government learned that Fortson was bragging he got a hung jury because his former girlfriend was on the jury. Further investigation revealed that Fortson's wife, Erica Williams, communicated with the juror, Jovanda Blackson, during the entire trial. All three were arrested and charged with obstruction of justice. Erica Williams has since pled guilty and Fortson and Blackson are awaiting trial. This will be the first time the government has prosecuted a "true" jury tampering case in at least the last twenty years.

Teaching law enforcement and attorneys - A number of times a year, I participate in training courses for the Metropolitan Police Department. In addition, I am an instructor in United States Attorney's Office training program for new attorneys I also give training on more advanced topics to attorneys joining the Homicide Section.

19. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.

I have never held judicial office.

A. List all court decisions you have made which were reversed or otherwise criticized on appeal.

Not applicable.

20. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).

No.

21. Political activities and affiliations.

a. List all public offices, either elected or appointed, which you have held or

sought as a candidate or applicant.

None.

b. **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

c. **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of $50 or more.**

None.

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

No.

23. **Have you or any business of which you are or were a officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

I am a member of a class action suit brought on behalf of Department of Justice attorneys. The suit seeks compensation for overtime worked or, in the alternative, to have attorneys treated like other law enforcement groups and be paid a premium to account for the overtime.

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s),**

business association(s), or business organization(s) if you are confirmed?

Yes.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

None.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

None.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

No.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

Not applicable.

8. **If confirmed, do you expect to serve out your full term?**

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section I I - 150 1 (b), as amended.

1. **Are you a citizen of the United States?**

   Yes.

2. **Are you a member of the bar of the District of Columbia?**

   Yes.

3. **Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.**

   Yes. I was admitted to practice law in the District of Columbia on October 28, 1985.

4. **If the answer to Question 3 is "no" --**

   A. **Are you a professor of law in a law school in the District of Columbia?**

   B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**

   C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**

   D. **Upon what grounds is that eligibility based?**

5. **Are you a bona fide resident of the District of Columbia?**

   Yes.

6. **Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.**

   Yes.

7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**

   No.

8. **Have you been a member of either of these Commissions within the last 12 months?**

   No.

9. **Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

   See Attachments F and G for copies of my District of Columbia Judicial Nomination commission questionnaire and a supplement to the questionnaire.

AFFIDAVIT

Jennifer M. Anderson, being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Jennifer M. Anderson

SUBSCRIBED and SWORN TO before me this 26th **day of** January **2006.**

Notary Public

David A. Foster
Notary Public District of Columbia
My Commission Expires: May 14, 2010

Post-Hearing Question Submitted by
Senator Joe Lieberman
For the Nomination of Jennifer M. Anderson
to be an Associate Judge of the Superior Court of the District of Columbia
July 12, 2006

On June 30, 2006, a motion was filed by the D.C. Public Defender Service in *U.S. v. Ellis* seeking to dismiss the case based on the failure to disclose to the defense the fact that a government witness had previously been an FBI informant, in alleged violation of so-called *Brady* requirements. As you know, these requirements, named after a Supreme Court case named *Brady v. Maryland*, require government lawyers to turn over to defense counsel any evidence favorable to the accused, including information about a government witness that may potentially impeach the witness's credibility. It appears that the fact that a witness was a government informant is something that would normally be required to be disclosed under *Brady*.

You were one of the two prosecutors in that case, and the motion alleges that there is a witness prepared to testify that at least one of the prosecutors had actual knowledge of the *Brady* information but failed to turn it over to defense counsel before trial.

a. Can you please address the allegation contained in the motion, your understanding of the basis for that allegation, and your response to it?

On July 19, 2006, the United States filed the "Government's Response to Defendant's Motion to Dismiss and Request for an Evidentiary Hearing" (Government's Response). I have attached a copy of the response, which addresses the allegations contained in the defendant's motion and the government's response to that allegation.

b. Do you agree that if you had known about the information, you would have had an obligation under *Brady* to turn it over to defense counsel?

The District of Columbia Court of Appeals has explained that "Brady established that the government has a constitutional duty to disclose material evidence favorable to a criminal defendant in time for the defendant to make effective use of it at trial." Stewart v. United States, 881 A.2d 1100, 1116 (D.C. 2005) (internal citation and quotation omitted). Favorable evidence is material under Brady "only 'if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.'" Rowland v. United States, 840 A.2d 664, 687 (D.C. 2004)(quoting Strickler v. Greene, 527 U.S. 263, 280 (1999)). A "mere possibility that an item of undisclosed information might have helped the defense, or might have affected the outcome of the trial, does not establish 'materiality' in the constitutional sense." United States v. Agurs, 427 U.S. 97, 109-110 (1976). The "critical point" for purposes of the Brady inquiry is that "the prosecutor will not have violated his constitutional duty of disclosure unless his omission is of sufficient significance to result in the denial of the defendant's right to a fair trial." Id. at 108.

As the Supreme Court has stated, although the term "Brady violation" is sometimes used to refer to any failure to disclose exculpatory or impeaching evidence, "strictly speaking, there is never a real 'Brady violation' unless the nondisclosure was so serious that there is a reasonable probability that the suppressed evidence would have produced a different verdict." Strickler, 527 U.S. at 282. "The burden is on the defendant to establish such a reasonable probability." Ginyard v. United States, 816 A.2d 21, 32 (D.C. 2003)(citing Strickler, 527 U.S. at 291)).

In this case, as was discussed more fully in the Government's Response, the government did not violate Brady's duty to learn by failing to discover a witness' history as a confidential informant for the FBI because the FBI was not part of the prosecution team, the witness had not worked for the FBI for 9 years, and there was no reason to suspect that he had ever done so in the past. Moreover, the defendant was not prejudiced by the government's failure to do so at any rate. In this case, Ellis can not establish prejudice because: (1) the evidence against Ellis was overwhelming; (2) the witness' testimony was not admitted against Ellis; (3) the impeachment value of the undiscovered and undisclosed information was minimal as compared to other impeachment information that had been disclosed; and (4) the defense strategically chose not to cross-examine either the witness and an additional witness regarding the evidence that implicated only the co-defendant and not Ellis.

Had the prosecution learned of the witness' past work as a confidential informant before Ellis's trial, disclosure would have been appropriate. However, the government likely would have moved the Court to preclude use of the information at trial because it was so remote in time that it was irrelevant to the witness' current bias toward the government and because disclosure of the information could pose a security threat to the witness. Cf. Roviaro v. United States, 353 U.S. 53, 59 (1957) (informant privilege "recognizes the obligation of citizens to communicate their knowledge of the commission of crimes to law-enforcement officials and, by preserving their anonymity, encourages them to perform that obligation").

c. What specifically did you know at the time of that trial regarding the government witness' status as an informant?

At the time of the murder trial of Harry Ellis, I did not know that the witness had once been a confidential informant for the Federal Bureau of Investigation.

d. What specifically did you do in this case to determine whether there was any *Brady* material with respect to this witness?

Before proceeding to trial in any criminal case, I review the entire U.S. Attorney's Office case jacket, the Metropolitan Police Department (MPD) case file (which is given to me by the assigned MPD detective), any witness plea agreement, and the criminal history check for each government witness. I order and review any necessary transcripts for a cooperator (such as a plea hearing) and speak to the assigned assistant for that cooperator. I also personally interview any witness (assuming the witness is cooperative) I plan to call during the trial. I followed this standard procedure in this case.

Prepared Statement of Paul Strauss
July 11, 2006

Chairman Voinovich, and members of the Senate Committee on Homeland Security and Governmental Affairs, I am Paul Strauss, a United States Senator elected by the voters of the District of Columbia, a position sometimes referred to as the Shadow Senator. I am also an attorney practicing in our local courts. In each of these capacities, I appreciate the opportunity to provide this statement on behalf of my constituents in the District of Columbia. I place this statement in the record today to express my wholehearted support for President Bush's nomination of The Honorable Anna Blackburne-Rigsby, and Ms. Phyllis D. Thompson, Esq. to be Associate Judges of the District of Columbia Court of Appeals. I also would like to strongly support the nomination of Ms. Jennifer M. Anderson, Esq. to be an Associate Judge of the Superior Court of the District of Columbia.

I would like to take this opportunity to address the specific qualifications of each of the individual nominees. I have had the opportunity to follow the career of Judge Blackburne-Rigsby, for some time now. She attended DC's own Howard University School of Law and has a broad understanding of the legal system. Judge Blackburne-Rigsby has an accomplished record, having served with distinction as a Hearing Commissioner of the Superior Court of the District of Columbia until she was appointed Associate Judge in 2000. Judge Blackburne-Rigsby also worked in private practice as an associate at the law firm of Hogan and Hartson where her practice focused on commercial, real estate, employment discrimination, and education matters before state and federal courts and administrative agencies. In the public sector she has significant experience working as Deputy Corporation Counsel in charge of the Family Services Division. She has been a source of insight to the Superior court dealing with child abuse and neglect, child support and enforcement, and domestic violence cases, and I know she will be as valuable an asset to our DC Court of Appeals. Judge Blackburne-Rigsby is also very active in our local community. She chairs the Nominating Committee for the National Association of Women Judges and is a member of the NAACP. As a basketball coach and a mentor for the CYO League, Judge Blackburne-Rigsby has made a difference in many adolescent lives. Moreover, she has received a plethora of awards and acknowledgment for her community and local activities, which include National Association of Professional Women Meritorious Service Award. I urge prompt and favorable action on her nomination as soon as possible.

The second nominee for an Associate Judge position of the District of Columbia Court of Appeals is Phyllis D. Thompson, Esq. She received her J.D. from The National Law Center at George Washington University, and has an M.A. in Religion from Princeton University. Through her education and experience in practicing law, Ms. Thompson will bring a greater understanding of federal health and welfare programs, other federal grant programs, and administrative law. Ms. Thompson is a partner at the Covington and Burling law firm. Her legal career includes many significant cases such as National Law Ctr. on Homelessness and Poverty v. United State, Multicare Medical Center v. State of

Washington, and Howard University Hospital v. Bowen. Additionally, she frequently practices before the Department of Health and Human Services Departmental Appeals Board, where she has made many noteworthy presentations on federal health and welfare program topics. Ms. Thompson serves as a Bar examiner and leads preliminary conferences with Bar applicants on character and fitness-to-practice issues as the Vice-Chair of the D.C. Court of Appeals Committee on Admissions. Ms. Thompson has made important contributions in the non-profit sector. Some of these organizations include but are not limited to: the Washington Legal Clinic for the Homeless, the DC Appleseed Center for Law and Justice, the Washington International School (where she chairs the Board's Enrollment Management Committee), the Ambassador Baptist Church Christian School, the Atlas Performing Arts Center, the Covington & Burling Public School Project, the Council for Court Excellence, Woodley House, and the D.C. Circuit Historical Society (for which she also served as an interviewer for the Oral History Project). Sczerina Perot, Staff Attorney for the Washington Legal Clinic for the homeless, stated that Ms. Thompson "has been a leader within the DC bar and is deeply respected by her colleagues at other firms and by the public interest legal community. She is clearly committed to justice as evidenced by her leadership of the Landlord Tenant taskforce. Her commitment to justice, fairness and legal acumen will be an asset to the Court." Ms. Thompson has served as co-chair of the D.C. Bar Public Service Activities Corporation's Landlord/Tenant Task Force and is credited by many with making significant improvements to this operation of that very busy court. She served as a member of the Board of Governors of the D.C. Bar. In 2001 she received a commendation from the U.S. District Court for the District of Columbia for her work in designing and directing the School Outreach Project as part of the D.C. Courts Bicentennial Celebration. Furthermore, Ms. Thompson was also an instructor and lecturer in the Department of Theology at Georgetown University. It is obvious to me that Ms. Thompson would make a notable addition to our Court of Appeals. Her civic commitment is as impressive as her keen legal mind.

The remaining subject of our hearing for today is the nominee for an Associate Judgeship on the Superior Court of the District of Columbia. She is Jennifer M. Anderson, Esq. Ms. Anderson was born in Ireland, and came here with her parents in search of better opportunities. She appears to have found them. Ms. Anderson received her law degree from Catholic University School of Law, where she was the Associate Editor of the Law Review. Since 2003 Ms. Anderson has served as the Deputy Chief of the Fifth District Homicide/Major Crimes section and is also an Assistant United States Attorney for the District of Columbia.

As Deputy Chief she has provided legal advice to the Metropolitan Police Department concerning the investigation of homicides. She has prosecuted a range of criminal cases in Superior and Federal Court. Furthermore, Ms. Anderson has broad grand jury work in the area of homicides, assaults with attempted murder, and narcotics conspiracies. For example, she is accountable for prosecuting a multi-jurisdiction narcotics conspiracy, which resulted in over fifteen indictments and convictions. Ms. Anderson has received a plethora of awards including one of the Department of Justice's highest award, The Director's Award, which is a nationwide honor for superior performance in a specific

case. She received this regarding her work in United States v. Carlton et al., a high profile case of the murders of two high school seniors after a basketball game at the local school. Additionally, Ms. Anderson was the recipient of five special achievement awards: Civil Rights (2000), Community Prosecution (1999), Homicide (1997), Narcotics (1995), and Felony Trial (1993). She has also received Certificates of Commendation from the Bureau of Alcohol, Tobacco, and Firearms as well as from the Federal Bureau of Investigation. In September of 1997 she was selected as a Special Prosecutor in the National Church Arson Task Force. As Special Prosecutor Ms. Anderson conducted comprehensive grand jury investigations and prosecutions of civil rights violations arising out of church arsons. In addition, Ms. Anderson worked one-on-one with the Department of Justice, local prosecutors, state law enforcement officers, and agents from various federal agencies. Ms. Anderson's outstanding legal work, her professionalism, and her commitment to the District of Columbia display the devotion and ambition she has to make an exceptional Associate Judge.

After I was able to look over the information made accessible to my office, and having the chance to talk with each candidate, I am certain that they will discharge the duties of their Judicial appointments with honor and distinction. Were I seated with the full rights and privileges of a U.S. Senator, I would vote to confirm the nomination of Judge Anna Blackburne-Rigsby, Ms. Thompson, and Ms. Anderson without hesitation. I look forward to their investitures as Associate Judges of the District of Columbia and am confident that they will uphold the honor of our justice system. Today I ask that you extend to me a degree of Senatorial Courtesy and cast your vote in support of these nominees for the residents of the District of Columbia who do not have anyone in this body who many cast a vote on their behalf.

Finally, I would like to thank Ms. Meagan Mirtenbaum, a member of my legislative staff, for her help preparing this testimony, and her efforts in coordinating the meetings with the nominees, and reviewing the biographical information on each of them

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