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NOMINATIONS OF JENNIFER A. DI TORO, DONNA M. MURPHY, AND YVONNE M. WILLIAMS

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

NOMINATIONS OF JENNIFER A. DI TORO, DONNA M. MURPHY, AND YVONNE M. WILLIAMS TO BE ASSOCIATE JUDGES OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

JUNE 15, 2011

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NOMINATIONS OF JENNIFER A. DI TORO, DONNA M. MURPHY, AND YVONNE M. WILLIAMS

WEDNESDAY, JUNE 15, 2011

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

The Committee met, pursuant to notice, at 2:31 p.m., in room 342, Dirksen Senate Office Building, Hon. Daniel K. Akaka, presiding.

Present: Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Aloha, and welcome to the Committee on Homeland Security and Governmental Affairs.

Today, we consider the nominations of Jennifer Di Toro, Donna Murphy, and Yvonne Williams to be Associate Judges of the Superior Court of the District of Columbia. We consistently receive excellent candidates nominated by the President from those recommended by the nonpartisan Judicial Nomination Commission. I am sure that, if confirmed, these nominees will join the others who have appeared before us in making valuable contributions to the D.C. courts.

I would now like to welcome Congresswoman Norton. She is like a legend, too, not only in this area, but in the House, and she has served the District of Columbia really well over the years. I yield for her introduction of our nominees.

Please proceed, Congresswoman Norton.

INTRODUCTION OF THE NOMINEES BY HON. ELEANOR HOLMES NORTON, A DELEGATE IN CONGRESS FROM THE DISTRICT OF COLUMBIA

Ms. NORTON. Thank you, Chairman Akaka. I must say, your kind words, coming from one of the legendary icons of the Senate, are generous, indeed, and I appreciate them. I particularly appreciate your work, and I believe, for sure, I speak for the residents of the District of Columbia when I say that a great Senator has had time to work not only for his State, but to do wonderful work for the District of Columbia. We are always very pleased with how you have paid attention and moved our matters here in the Senate.

Chairman Akaka, I have three candidates to offer this afternoon for the D.C. Superior Court. As you know, the D.C. Superior Court

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is an Article I court, but these are city judges, for all intents and purposes. They sit on matters affecting D.C. law and the D.C. Code. They are very well prepared to do that, in my judgment.

I begin, in alphabetical order, with Jennifer Di Toro, who would come to the court as Legal Director of the Children's Law Center, which is the city's largest civil legal services provider. She has also been a staff attorney for the Public Defender Service for the District of Columbia and an associate before that at the law firm of Zuckerman Spaeder. She has been Vice President of the Washington Council of Lawyers, has her Bachelor's degree from Wesleyan University, a Master's degree from the University of Oxford, and a J.D. from Stanford Law School.

Donna Murphy has served in the Civil Rights Division of the Department of Justice (DOJ) for nearly 20 years. She is currently Principal Deputy Chief of the Housing and Civil Enforcement Section. She has had major posts in the Justice Department in this section throughout her service, as Deputy Chief and Special Counsel for Police Matters in the Division's Special Litigation Section, as Deputy Chief and Trial Attorney in the Division's Voting Section. She has received the John Doar Award for Exceptional Accomplishments given by the Justice Department. She clerked for a Federal judge in Montgomery, Alabama, received her law degree from Yale Law School, and is a graduate of American University.

Finally, Yvonne Williams is in private practice at Miller and Chevalier, Chartered. She has litigated employment and employee benefit issues before Federal and State courts and administrative agencies. She has been a Staff Attorney for the Public Defender Service for the District of Columbia. She has tried 30 cases before juries and judges in the D.C. Superior Court, where she seeks to serve, as well as the D.C. Court of Appeals, and she has been an attorney with the NAACP Legal Defense and Educational Fund. She is a graduate of Northeastern University's School of Law, and her B.A. is from the University of California at Berkeley.

These are, in my judgment, Mr. Chairman, very well qualified candidates to sit on our D.C. Superior Court.

Senator AKAKA. Thank you very much, Congresswoman Norton. With your support, there is no question that we will do our best to move this along as quickly as we can to get them confirmed. I appreciate your being here to introduce these nominees, and also I know how busy you are and appreciate your being here. Thank you very much.

Ms. NORTON. Thank you, Mr. Chairman.

Senator AKAKA. Our nominees all have strong legal backgrounds, as was mentioned by the Congresswoman, and have devoted much of their careers to public service.

Ms. Di Toro currently is the Legal Director, as was mentioned, at the Children's Law Center and also spent many years with the D.C. Public Defender Service.

Ms. Murphy currently is the Principal Deputy Chief of the Housing and Civil Enforcement Section at the Department of Justice. Ms. Murphy has spent most of her career at DOJ working in the Voting and Special Litigation Sections of the Civil Rights Division.

Ms. Williams currently is counsel at the law firm of Miller and Chevalier. Before joining the private sector, Ms. Williams was an attorney with the D.C. Public Defender Service.

I believe these nominees have much to offer to the D.C. Superior Court, and I hope—and I am repeating myself because it is important—that we can act quickly to confirm them.

Each nominee has filed responses to a biographical and financial questionnaire submitted by the Committee, so without objection, this information will be made part of the hearing record, with the exception of the financial data, which will be kept on file and made available for public inspection in the Committee office.

Our Committee rules require that all witnesses at nomination hearings give their testimony under oath. Therefore, at this time, I ask you to please stand and raise your right hand.

Do you swear that the testimony you are about to give this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. DI TORO. I do.

Ms. MURPHY. I do.

Ms. WILLIAMS. I do.

Senator AKAKA. Thank you. Please note for the record that the witnesses answered in the affirmative.

Ms. Di Toro, I understand that you have family here with you today. We would like to meet them, and I would like to give you an opportunity to introduce them at this time.

Ms. DI TORO. Thank you, Senator. I would like to introduce the members of my family who are here with me today: Marilyn and Dominic Di Toro, Enza Mullen Weitzner, Ellen Feder, and Dominic, Zoey, and Enza.

Senator AKAKA. Will you raise your hands? Oh, there you are. Thank you for attending. It is great support. Thank you.

Ms. Williams, please introduce your family.

Ms. WILLIAMS. Thank you, Senator. I have with me today my son, Kendall Weaver; my mother, Julia Burgess; my brother, who is right behind me, Kevin Williams; and my stepfather, who is right there, Roy Singham.

Senator AKAKA. Thank you.

And I did not forget you, Ms. Murphy. Please introduce your family and any friends who are here today.

Ms. MURPHY. Thank you, Senator. Mr. Chairman, I would like to introduce my family members who are here today. First, my husband, Keenan Keller; my daughters, Lillian Keller and Claire Keller; my parents, who have traveled here from Pennsylvania, Jack and Isabelle Murphy; and my father- and mother-in-law who have traveled here from Ohio, Albert and Inell Keller.

And I have a number of friends and colleagues in the audience. I do not want to introduce them because I am sure I will miss someone, but I would like to thank all of them for their support.

Senator AKAKA. Yes. Well, thank you so much. It is good to have all of you here because it shows the support that our nominees have. So thank you all. It is wonderful to see your loved ones here supporting you, and I am sure that they are proud of all you have accomplished.

Ms. Di Toro, we will begin with you. Please proceed with your statement.

TESTIMONY OF JENNIFER A. DI TORO [1] TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. DI TORO. Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you today and for considering my qualifications for a position as an Associate Judge of the Superior Court of the District of Columbia.

It is a great honor to be nominated. I want to thank the Judicial Nomination Commission, in particular the Chair of the Commission, the Hon. Emmet G. Sullivan, for recommending me to the White House and President Barack Obama for nominating me. I very much appreciate Congresswoman Eleanor Holmes Norton taking time from her schedule to introduce me. My thanks also to the Senate Committee staff for their hard work in preparing for this hearing and for the courtesy and professionalism they have extended to me throughout this process.

It has been my extreme good fortune to grow up in a household where curiosity, creativity, and excellence were actively encouraged. My parents, who you have met, my brother, Joe, and my aunts, uncles, cousins, and grandparents all contributed directly to my being before you today. I am grateful for their example and unflagging support.

A number of my friends, colleagues, and mentors are here today. I am also thankful for their steadfast encouragement and sustaining good humor. I would finally like to extend my special thanks to Chief Judge Lee F. Satterfield for his encouragement and exemplary leadership.

I attended law school in order to work on behalf of people who needed it most because they are living in poverty, facing the loss of liberty or property, or because they are children who require safety, stability, and health to live productive lives. I have been very fortunate to have worked at several of the District's premier organizations in service to those ideals.

At Georgetown University Law Center's Criminal Justice Clinic, the Public Defender Service, Zuckerman Spaeder, and Children's Law Center, I have had the honor of using my degree to enable people seeking solutions to pressing problems in environments that were challenging, rewarding, and inspiring. My commitment to public service and access to justice is also what motivates me to seek appointment to the bench.

As the Committee knows, I have been practicing law in the District of Columbia for nearly 15 years, handling all of my cases in Superior Court. I am, as one Superior Court judge put it to me, "homegrown," and I am quite moved to be before you as a nominee to the very court where I learned my craft and by the prospect of joining such an engaged and demanding bench. From them, I have learned much of what I know about the law, about ensuring access to justice, fairness, and the demands and rewards of public service.

[1] The prepared statement of Ms. Di Toro appears in the Appendix on page 16.

I am humbled to be considered for this position. I thank you for the opportunity to appear today, and I look forward to answering your questions. Thank you.

Senator AKAKA. Thank you very much, Ms. Di Toro.

Ms. Murphy, please go ahead with your statement.

TESTIMONY OF DONNA M. MURPHY[1] TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. MURPHY. Thank you, Mr. Chairman. I want to thank you and the Members of the Committee for the opportunity to appear before you today and for your consideration of my qualifications for a position as an Associate Judge on the D.C. Superior Court.

I would also like to thank the Judicial Nomination Commission, chaired by the Hon. Emmet Sullivan, for recommending me to the White House. I would like to thank President Barack Obama for my nomination and Delegate Eleanor Holmes Norton for her kind introduction. I would like to thank the Committee staff, also, for their professionalism in this process.

I am pleased that many of my family members, friends, and colleagues are here with me today, including those that you met a few minutes ago, and I am grateful to all of my family, friends, colleagues, and mentors for the incredible support and encouragement they have provided me in my chosen career of public service, and particularly in my application for this position on the Superior Court of the District of Columbia.

I was born and raised in Norristown, Pennsylvania.

However, I have chosen Washington, DC, as my home. I first visited the District of Columbia on a family vacation when I was about 12 years old, and I decided at that time that I would make the city my home. I followed through by moving to the District to attend college at American University. I did leave for a few years to attend Yale Law School and then to begin my legal career by serving as a law clerk to the Hon. Myron Thompson of the U.S. District Court for the Middle District of Alabama. After my clerkship, though, I moved back to Washington to work for the U.S. Department of Justice, Civil Rights Division, and I have lived, worked, and been part of the community here in the District of Columbia ever since that time.

Throughout my career, I have been fortunate to hold positions where my job every day is to do justice. This is a tremendous responsibility and a tremendous opportunity for me throughout my career. It began with my clerkship, where Judge Thompson taught me a tremendous amount about the law while also underscoring the importance of treating everyone who walks into the court with respect and dignity. Judge Thompson is a smart, fair, and respected jurist. He is one of my role models and has been an inspiration to me in seeking a position on the D.C. Superior Court.

As an attorney and manager in the Civil Rights Division for the past 20 years, I have had the opportunity to protect and defend the civil rights of many people whose rights otherwise might never have been vindicated. I have challenged myself by working in a variety of complex substantive areas, including Federal voting rights

[1] The prepared statement of Ms. Murphy appears in the Appendix on page 32.

enforcement, civil enforcement of Federal laws prohibiting systemic law enforcement misconduct, and enforcement of Federal laws prohibiting discrimination in credit, housing, and public accommodations.

I have worked in these areas as a Deputy Chief and Special Counsel, supervising numerous investigations and cases involving potential pattern or practice civil rights violations. I have trained dozens of new Department of Justice lawyers to enforce the law in a thorough and professional manner. I have been honored by the opportunity to make a difference in the lives of thousands of people throughout this great country by doing justice. I also have been very fortunate to have tremendously talented and dedicated colleagues in the Civil Rights Division.

If I am confirmed for the position of Associate Judge on the D.C. Superior Court, I look forward to the opportunity to focus my legal skills and energy on serving the people of the District of Columbia and bringing to the bench my extensive litigation, negotiation, and management experience. I am truly honored and humbled to be considered for this position, and I would welcome the opportunity to devote myself to providing justice in a fair and respectful manner to the people of the District of Columbia.

Thank you again for your time and your consideration of my nomination.

Senator AKAKA. Thank you very much, Ms. Murphy.

Ms. Williams, please proceed with your statement.

TESTIMONY OF YVONNE M. WILLIAMS[1] TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. WILLIAMS. Thank you. Mr. Chairman and Members of the Committee, I am grateful for and honored by the opportunity to appear before you today as a nominee to be an Associate Judge of the D.C. Superior Court. I would like to thank the D.C. Judicial Nomination Commission for recommending me to the White House and President Barack Obama for nominating me. I would also like to thank Congresswoman Norton for taking time out of her schedule to introduce me here today. I would also like to thank the Senate Committee staff members for considering my nomination and for treating me with the utmost courtesy and respect during this entire process.

So you have met my family, and I want to thank them for not only being here, but for a lifetime of support, encouragement, and guidance that has truly shaped the person I have become today. I would also like to thank my father, John Williams, and my sisters, Tanya Williams, Jackie Kramer, and Dandridge Floyd, who all reside in Detroit, Michigan, but could not be here today.

Finally, many of my fabulous friends, mentors, and colleagues, including apparently colleagues at Miller and Chevalier watching via webcast right now, are here with me today, and I would like to thank them for inspiring, challenging, and supporting me throughout my career.

Whether as a teenager growing up in Chicago, Illinois, or as an undergraduate at the University of California at Berkeley, or as a

[1] The prepared statement of Ms. Williams appears in the Appendix on page 55.

law student at Northeastern University School of Law, I have always been committed to doing what I can do to help improve and enrich the lives of others. At Northeastern, I was trained to become a lawyer imbued with a commitment to principled advocacy and to the notion that, because injustice can exist anywhere, it is our responsibility as lawyers to use the law to advance and improve the lives of those whom we serve. I have strived to do that for every client I have been fortunate enough to represent. As a D.C. Superior Court Judge, I will continue that commitment to making a positive difference in people's lives.

In my 14 years as a practicing attorney, I have fiercely advocated on behalf of my clients to protect and advance their rights and legal positions. During the first half of my career, I worked exclusively on behalf of low-income African-American workers before Federal courts throughout the country and indigent criminal defendants at both the trial and appellate level in D.C. Superior Court. In the second half of my career, to date, I have represented individuals and corporations in civil and criminal matters, defending their interests against various legal claims before Federal courts and administrative agencies. In each of these matters, I was dedicated to improving the circumstances of my clients and to working with them to seek and obtain just solutions to their problems.

I am moved and humbled to be considered for a judgeship on the D.C. Superior Court. This is the court where I grew up as an attorney. This is where I learned how to be a lawyer and where every day I was reminded of the strength, perseverance, and compassion of the citizens of the District of Columbia. I am so proud to serve this great city in this capacity, and I thank you again for considering my nomination.

Senator AKAKA. Thank you very much, Ms. Williams.

I will begin with the standard questions this Committee asks of all nominees, and I would like you all to answer each question.

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

Ms. DI TORO. No.

Senator AKAKA. Thank you.

Ms. MURPHY. No, Mr. Chairman.

Senator AKAKA. Thank you.

Ms. WILLIAMS. No, sir.

Senator AKAKA. Thank you.

Do you know of anything, 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?

Ms. DI TORO. No, Mr. Chairman.

Ms. MURPHY. No, Mr. Chairman.

Ms. WILLIAMS. No, Mr. Chairman.

Senator AKAKA. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Ms. DI TORO. I do, Mr. Chairman.

Ms. MURPHY. Yes, Mr. Chairman.

Ms. WILLIAMS. I do.

Senator AKAKA. Thank you very much for your responses.

I see that all three of you have experience in public service. I commend your decision to continue your service by joining the D.C. judicial system. Please elaborate on why you are seeking appointment to become an Associate Judge at this point in your career. Ms. Di Toro, I would like for you to start, to be followed by Ms. Williams and Ms. Murphy.

Ms. DI TORO. Thank you, Senator. The District of Columbia is the place, and the Superior Court in particular, where, as Ms. Williams said, I grew up as a lawyer, and it is the place where I believe justice is done every day for the citizens who come through the doors. I believe that I am able, at this point in my career, to make a contribution to that system of justice. I have had experience in the Family Court and in the Criminal Division, and I would be honored to serve in either if I am confirmed.

I believe that access to justice is one of the things that characterizes the United States of America's greatness and truth, and being able to walk through the doors of the Superior Court and know that you will receive a full and fair hearing is something to which I would be very honored to contribute.

Senator AKAKA. Thank you very much. Ms. Williams.

Ms. WILLIAMS. Thank you, Mr. Chairman. Quite honestly, as I said in my statement, the reason I sought to secure a position as a D.C. Superior Court judge truly was to be able to make a positive difference in people's lives. I think in a courthouse like the D.C. Superior Court, you are faced with issues and you are faced with people who are dealing with issues that are sometimes unimaginable, and I think that they look to places like D.C. Superior Court for empathy, for assistance, for respect, and most importantly, for justice, and I think that my background kind of uniquely suits me to be able to assist and offer my help to people and litigants before D.C. Superior Court, as it is a very active court and people expect prompt justice and they expect it with a level of respect that I know that I can provide them. And I think that it is crucial that we have judges who are committed to providing litigants that kind of treatment and respect, and my background certainly, I think, is consistent with that offering.

Senator AKAKA. Thank you very much.

Ms. WILLIAMS. Thank you.

Senator AKAKA. Ms. Murphy.

Ms. MURPHY. Thank you, Mr. Chairman. Unlike my two fellow nominees, I have spent my career in the Federal courts, and as I described, I have been very honored to have a very rewarding career in the Civil Rights Division. I have enjoyed and really hopefully done my best at opportunities and challenges I have had to help the individuals who were affected by the pattern or practice civil rights violations that I help to address through my work throughout the country.

But one thing I have not had the opportunity to do very often is to bring my legal skills and my public service to bear in the District of Columbia. Because the Justice Department has nationwide jurisdiction, we only occasionally have cases in the District of Columbia, and as a 20-year resident of the District of Columbia with children who are growing up here and as an active member of the

community, at this point in my career, I would like to bring my legal skills and experience that I have gained through the experiences I have had at DOJ to bear in a very positive way for the people in the District, and that is the main motivation for my looking to join the D.C. Superior Court.

Senator AKAKA. Let me just follow up with a question for you, Ms. Murphy. Can you please describe your temperament and the qualities you believe you would bring to the bench, if confirmed?

Ms. MURPHY. Thank you, Mr. Chairman, for that question. I, in my career for the last 15 years, have been a manager at the Department of Justice, and I, in that position, always try to bring a thoughtful, calm, and analytical approach to the issues that are brought before me. We receive complaints. The teams I supervise investigate them, and we have to determine what recommendation to make to the policy makers at the Department.

In that position, I deal with differing opinions, analyze the situation, try to get all the facts and apply them to the relevant law, and then make the best recommendation that I can in, as I said, a careful and thoughtful manner. I believe that I would bring those same qualities of balance, care, and analysis to the bench and to the problems that I would approach as a D.C. Superior Court judge if I am confirmed.

Senator AKAKA. Thank you very much.

Ms. Di Toro, as a judge, you may have pro se litigants or young and inexperienced attorneys appear before you. How have your experiences prepared you to deal with these situations?

Ms. DI TORO. Thank you for that question. I have a lot of experience with direct service, and there is not very much difference between talking to someone who is facing the crisis of a lifetime and trying to explain in clear, non-legal language what is about to happen, the likelihood of outcomes that are of concern to them, and to do so in a way that is respectful, is empathetic, and allows plenty of time for people to ask questions. And my hope is that I would be that kind of judge, who allows time for people to ask questions, to consult with counsel if they need it.

And for pro se litigants, it is particularly important that they understand that courtrooms have procedures, that we have rules that govern proceedings, that there are rules of evidence, that there are rules governing witnesses, and it is the responsibility of the judge to make sure that there is a just outcome in every case. And it is more difficult, conceivably, with pro se litigants, but my belief is, with my extensive experience with children, adults, and teenagers in my current job, that it is possible to keep an even temperament, with reference to your prior question for Ms. Murphy, and also to help people, regardless of whether they have counsel or not, through these very difficult processes.

Senator AKAKA. Thank you for your response.

Ms. Williams, a judge is often challenged to rule on complex issues both quickly and correctly. Please describe how your experience qualifies you to confront this challenge.

Ms. WILLIAMS. Well, my experience for most of my career has been either as a trial lawyer or as a litigator, and as a trial lawyer and as a litigator, particularly as a trial lawyer, you are often thinking on your feet. You are often having to move very quickly

and come up with legal solutions to problems that are facing your clients as they come up in trial.

As a litigator, when you are faced with any kind of legal issue, obviously, the first thing that you do is you research the answer to the question if you do not know the answer. I certainly would not, if confirmed, be a judge to shoot from the hip and go from there. Certainly, research is important. Listening to the litigants before you is also very important, and certainly relying on the arguments that they represent is important.

Finally, relying on your colleagues with whom you work is important. Certainly, you cannot be an effective litigator or a trial lawyer—at least, I cannot—without relying on and being able to look to your fellow colleagues who have been doing it longer than you, who have different strategies and different ways of looking at things and resolving problems. And so all of those avenues of reaching out certainly should be explored before coming to any kind of legal conclusion, I would suspect, and that is what I certainly plan to do, if confirmed, as a D.C. Superior Court judge. Thank you.

Senator AKAKA. Thank you.

The role of a judge is very different from the role of an advocate and will be new to all three of you. Will you please discuss how you will transition to the role of an impartial decisionmaker. So let me call on Ms. Murphy first.

Ms. MURPHY. Thank you, Mr. Chairman. I believe that if I am confirmed, I will be able to transition successfully to the role of a judge based on experiences that I have had during my career thus far. In particular, one of the things that I mentioned earlier in terms of one of my jobs as a manager at the Department of Justice is to listen to differing points of view and sometimes synthesize those and sometimes just make a decision in terms of how we should proceed at a recommendation level or how we would proceed in a trial or on a procedural matter.

In approaching those kinds of decisions, I believe it is very important to listen to all sides of the issues and to ensure that everyone has their say and then to move forward in making decisions. So I am comfortable, certainly, building consensus. I am also comfortable mediating solutions, and I am also comfortable making decisions when I have to make a decision regarding conflicting points of view.

Senator AKAKA. Ms. Di Toro.

Ms. DI TORO. Thank you, Mr. Chairman. The transition, as I see it, is going from an attorney whose job it is, whose ethical duty it is to zealously advocate for a single client to being responsible for all of the litigants, all of the parties in a case. I believe that the same qualities that enable me to counsel clients regarding the many possible outcomes in their cases would serve me as a judge in being able to conduct myself and my courtroom in such a way that all parties who appear leave with a sense that they have been treated fairly, regardless of the outcome of their case. There have to be winners and there have to be losers, but everyone ought to leave the D.C. Superior Court and, if I am confirmed, my courtroom with a sense that they have been heard and that they have been able to fully present their side of the case.

Senator AKAKA. Thank you. Ms. Williams.

Ms. WILLIAMS. I kind of have to piggyback just a little bit on what Ms. Di Toro was saying. As a litigator, and even as a trial lawyer, it is very difficult to be successful if you only know your case, but you do not know the case of your opponent. I find myself always objectively standing back and looking at my cases and trying to figure out what are the strongest arguments on both sides and being able to articulate both positions to my client so my client can make an informed decision about what it is that they want to do.

Obviously, that level of objectivity will inform my ability to be an effective D.C. Superior Court judge, if confirmed, and I hope to bring that level of objectivity and understanding to the bench and to assist the litigants who would appear before me. Thank you.

Senator AKAKA. Thank you.

Ms. Williams, the D.C. Superior Court handles many different types of cases, and a judge may not know which docket he or she will be assigned to. How has your career prepared you to handle the wide range of legal issues you will be confronting?

Ms. WILLIAMS. Well, my career is kind of different than a lot of people in that I have done a significant amount of civil work as well as a significant amount of criminal work. I think a lot of attorneys do work in one specific area and do not go into both. I have defended plaintiffs. I have represented plaintiffs in civil cases. I have represented defendants in civil cases and, obviously, defendants in criminal cases. And so my experience is very varied in terms of representation of individuals and corporations who appear before courts.

Now, when I take the bench, if confirmed, that experience, I am sure, will be helpful as a judge. But one of the major things I will probably do if I am confirmed is to seek advice and counsel from the other judges who have been there for years before me and who obviously have had countless experiences as a judge and probably can remember very well their first day being there and can guide me and help me through the process. But I am sure that the background that I have had thus far will at least give me a good foundation to start off. Thank you.

Senator AKAKA. Thank you.

Ms. Murphy, I want to ask you a related question. You have primarily practiced civil law. You may, however, be assigned to a criminal docket. What steps will you take to familiarize yourself with different areas of the law?

Ms. MURPHY. Thank you, Mr. Chairman. If I am confirmed and if I were assigned to a criminal docket, I think there are a number of steps that I would take to familiarize myself. First of all, my understanding is that the Superior Court has an excellent training system, and I would certainly take advantage of all the training they offered. I would also consult, as Ms. Williams said, with the more experienced judges in terms of their procedures and their best practices and any other advice they would have in terms of running a particular type of docket, and I would do that regardless of which type of docket I was assigned to. I would also, of course, do the research that was necessary to familiarize myself with all of the applicable rules and requirements for running that type of docket.

I think that I could bring experience that would be useful because while I have practiced only civil law, I have practiced in a number of different substantive areas and have learned each of those areas in my career with these kinds of measures. Also, while I have not practiced criminal law per se, my experience working with law enforcement agencies in the Special Litigation Section has given me some familiarity with police procedures and various aspects of State court criminal proceedings that I think would give me a basis for beginning to learn how to run that kind of docket as a judge. Thank you.

Senator AKAKA. Thank you.

Ms. Di Toro, as you know, courtrooms can often be emotionally charged places. Please describe how you plan to maintain a productive courtroom environment while making sure people feel their concerns were heard.

Ms. DI TORO. I would say that the judge does set the tone in a courtroom and courtrooms that are scheduled in such a way that people know that the time that they are scheduled to appear is at or very close to the time that their case will be heard.

In terms of the emotions, people are in distress, and it is fair that they be able to express that distress. It is also reasonable, I believe, for the judge to maintain a sense of order. It is actually critical. And some of the same skills that I have acquired dealing with clients who also were facing very difficult circumstances are applicable to the role that I believe a good judge plays, which is to acknowledge that something is difficult, to explain clearly what is going on, to listen, and if necessary, to ask that the person or people perhaps take a recess, collect themselves. I have been very privileged to be in courtrooms that were the scene of extremely difficult circumstances and to watch judges on the Superior Court calm the proceedings and move forward efficiently while still balancing the need for litigants to be heard.

Senator AKAKA. Thank you very much for your response.

This is my final question to all of you, and I would like you to respond. During your years practicing law, you have appeared before many judges and no doubt learned a great deal from just observing them. Will you describe qualities you hope to emulate and those you hope to avoid. [Laughter.]

Ms. Williams, will you please begin, followed by Ms. Murphy and Ms. Di Toro. Ms. Williams.

Ms. WILLIAMS. Yes, I have appeared before many judges, in fact, in D.C. Superior Court, obviously, as a public defender, and the judges in D.C. Superior Court are superior judges. It is an outstanding bench that we have and we are lucky enough to practice in front of.

But I will say the judges that I hope to emulate are the judges who are unbelievably empathetic and caring, particularly about the children who come before them in family court matters or in juvenile court matters. I mean, you can see some very distressing fact patterns, to put it mildly, and the judges are unbelievably empathetic and caring about really getting it right, really getting the services for the family and for the children who are before them, and that is something that I truly hope to emulate.

Some judges are very, I will say, fast. They rule on motions quickly. They are very polite to litigants, and I really hope to do that, as well, in terms of being patient and polite and, most importantly, ruling on motions quickly to the extent that it is possible to rule any more quickly because I know what it is like to represent clients who really want their matters resolved as quickly as possible, and I know that there is a lot of pressure on judges to get things through, and I hope to be able to do that.

Things that I hope to not do would be allowing lawyers just to sit around all day without having taken the bench in a timely fashion. That has happened to me several times as a lawyer. It still happens, and obviously, sometimes you cannot control your schedule, and sometimes it happens that judges cannot take the bench in an entirely timely fashion. But there are some judges who routinely are late, and it can be very difficult as a lawyer, representing a client. Clients get impatient. They want to be heard. I mean, that is what judges are there for. We are there to serve the people who are there and to get on the bench on time and start serving. So that is what I hope to not do. Thank you.

Senator AKAKA. Thank you very much. Ms. Murphy.

Ms. MURPHY. Thank you, Mr. Chairman. I would echo Ms. Williams' statements about the importance, I think, of empathy and also efficiency in judging, and I would hope that, if I am confirmed, I would emulate the judges whom I have appeared in front of who are very good in those categories.

I have been fortunate that the vast majority of judges I have appeared in front of have been very good judges, and the other quality that I would say is most important, that I would like to emulate the most, is respect for all the litigants, which I think is absolutely crucial—to show and to demonstrate, the way questions are asked and the way that proceedings are run, that the judge has respect for all the parties as well as the lawyers, and that is something that I have seen done very well, and also for the jurors when you have a jury. I have watched good judges run jury trials in a way that shows how respectful they are of the jurors' time, and I think that is very crucial as well.

In terms of what I would avoid, the one thing I think I would try to avoid the most is lack of transparency about what is going on. When judges are not clear with the attorneys about what they are doing—for example, if it is going to take time to rule on a particular motion, it is much better, in my view, for the judge to let the parties know and let the attorneys know that it is going to take several weeks, or that he or she is going to rule on the motion in a certain time and fashion and to set a scheduling order and to be very transparent about the procedures that are followed so that the attorneys and the parties are not left guessing, and that would be something that I would certainly want to avoid, and I would try to establish very transparent and clear procedures for how I was operating.

Senator AKAKA. Thank you. Ms. Di Toro.

Ms. DI TORO. Thank you, Mr. Chairman. And for my part, I agree with what my fellow nominees have said. I do think that the judge's temperament is exceedingly important and, as I said before, does set the tone. I would hope that I would be a rigorous judge.

The judges that I enjoyed appearing in front of the most were the judges I knew were demanding the most of the parties. I appreciate efficiency, patience, politeness, and I have also had the experience in family court of judges who are truly empathetic to the circumstances facing the families of the District of Columbia.

It is important that judges get it right and that they also understand that if something is going to take a long time—I agree with Ms. Murphy—you tell the litigants that this is going to take some time and be clear about how long it is likely to take for rulings or motions, or even the day's proceedings. I have always appreciated when a judge says, "We will be back at two o'clock," and we are back at two o'clock.

I would also avoid long waits for clients, for witnesses, for jurors, and for families. It is asking a lot of people who are anxious to spend hours and hours, sometimes excluded from courtrooms when they are closed for sealed proceedings, to just wait. And by the same token, I would try to avoid rushing litigants. I think it is a difficult balance, and I have absolutely been fortunate to practice in a courthouse where those qualities are the norm.

I think the D.C. Superior Court serves D.C. residents with enormous dignity, and if I am confirmed, it would be a great honor to be able to do the same.

Senator AKAKA. Well, thank you very much for your responses, and thank you for your testimony.

There are no further questions at this time from me. There may be additional questions for the record, which will be submitted to you in writing. The hearing record will remain open until the close of business tomorrow for Members of this Committee to submit additional statements or questions.

I want to compliment you and thank you for bringing your families, your friends, and your supporters to this hearing. I want to thank the staff for all the work that they have done to bring this about. We will move as quickly as we can toward confirmation. It is my hope that this Committee and the Senate will be able to act quickly on it.

So again, thank you very much. I have enjoyed you and your families. This has been like a family session today. But I want to wish you well in what is coming in the future. I just want to say that your future work will really add to the community and its well being. So thank you very much and aloha.

This hearing is adjourned.

[Whereupon, at 3:24 p.m., the Committee was adjourned.]

APPENDIX

Statement of Senator Daniel K. Akaka
Nomination Hearing for Jennifer DiToro,
Donna Murphy, and Yvonne Williams to be Associate Judges of the District of Columbia Superior Court

June 15, 2011

Aloha and welcome to the Committee on Homeland Security and Governmental Affairs. Today, we consider the nominations of Jennifer DiToro, Donna Murphy, and Yvonne Williams to be Associate Judges of the District of Columbia Superior Court.

We consistently receive excellent candidates nominated by the President from those recommended by the non-partisan Judicial Nomination Commission. I am sure that, if confirmed, these nominees will join the others who have appeared before us in making valuable contributions to the D.C. courts.

Our nominees all have strong legal backgrounds and have devoted much of their careers to public service.

Ms. DiToro currently is the Legal Director at the Children's Law Center and also spent many years with the D.C. Public Defender Service.

Ms. Murphy currently is the Principal Deputy Chief of the Housing and Civil Enforcement Section at the Department of Justice. Ms. Murphy has spent most of her career at the Department of Justice (DOJ) working in the Voting and Special Litigation sections of the Civil Rights Division.

Ms. Williams currently is Counsel at the law firm Miller & Chevalier. Before joining the private sector, Ms. Williams was an attorney with the D.C. Public Defender Service.

I believe these nominees have much to offer the D.C. Superior Court and I hope we can act quickly to confirm them.

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Opening Statement of Jennifer A. Di Toro
Nominee to be Associate Judge of the Superior Court of the District of Columbia
June 15, 2011

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you today, and for considering my qualifications for a position as an Associate Judge of the Superior Court of the District of Columbia. It is a great honor to be nominated. I want to thank the Judicial Nomination Commission, in particular the Chair of the Commission, The Honorable Emmet G. Sullivan, for recommending me to the White House, and President Barack Obama for nominating me. My thanks also to the Senate Committee staff for their hard work in preparing for this hearing and for the courtesy and professionalism they have extended to me throughout this process.

I would like to introduce the members of my family who are here with me today: Marilyn and Dominic Di Toro, Ellen Feder, and Dominic, Zoey and Enza. It was my extreme good fortune to grow up in a household where curiosity, creativity and excellence were actively encouraged. My parents, my brother Joe, and my aunts, uncles, cousins, and grandparents all contributed directly to my being before you today. I am grateful for their example and unflagging support. A number of my friends, colleagues and mentors are here as well. I am thankful for their steadfast encouragement and sustaining good humor. I would finally like to extend my special thanks to Chief Judge Lee F. Satterfield, for his encouragement and exemplary leadership.

I attended law school in order to work on behalf of people who needed it most – because they are living in poverty, facing the loss of liberty or property, or because they are children who require safety, stability and health to live productive lives. I have been very fortunate to have worked at several of the District's premier organizations in service to those ideals. At Georgetown University Law Center's Criminal Justice Clinic, the Public Defender Service, Zuckerman Spaeder and Children's Law Center, I have had the honor of using my degree to enable people seeking solutions to pressing problems, in environments that were challenging, rewarding, and inspiring. My commitment to public service and to access to justice is also what motivates me to seek appointment to the bench.

As the Committee knows, I have been practicing law in the District of Columbia for nearly 15 years, handling all of my cases in Superior Court. I am, as one Superior Court judge put it to me, "home grown," and I am quite moved to be before you as a nominee to the very Court where I learned my craft, and by the prospect of joining such an engaged and demanding bench. From them I have learned much of what I know about the law, about ensuring access to justice, fairness, and the demands and rewards of public service. I am humbled to be considered for this position; I thank you for the opportunity to appear today, and I look forward to answering your questions.

Thank you.

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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).

   Jennifer Ann Di Toro

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

   I am a United States citizen.

3. Current office address and telephone number.

   Children's Law Center
   616 H Street, NW
   Washington, D.C. 20001
   (202) 467-4900 ext. 533

4. Date and place of birth.

   May 6, 1967
   Princeton, New Jersey

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: Ellen K. Feder
   Associate Professor of Philosophy
   American University
   4400 Massachusetts Avenue NW
   Washington, D.C. 20016

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

   REDACTED

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.

Georgetown University Law Center, attended 1997 – 1999, LL.M. June 1999

Stanford Law School, attended 1994 – 1997, J.D. June 1997

University of Oxford, attended 1989 – 1991, M.Phil. Modern British Literature, May 1991

Wesleyan University, attended 1985 – 1989, B.A. May 1989

Dwight Morrow High School, attended 1981 – 1985, diploma June 1985

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.

Editorial Assistant to the President, W. W. Norton & Company, 500 5th Avenue, New York, NY 10110 1991-1994
Edited and prepared non-fiction manuscripts for publication.

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.

Wasserstein Public Interest Fellowship, Harvard Law School	2010
E. Barrett Prettyman Fellowship, Georgetown University Law Center	1997
Lisa M. Schnitzer Memorial Scholarship, Stanford Law School	1995
Stanford Public Interest Law Foundation Grant, Stanford Law School	1995; 1996
Phi Beta Kappa	1989
Keasbey Memorial Fellowship (Full tuition and living expenses for graduate study at The University of Oxford)	1989
University Honors, High Honors in the College of Letters, Wesleyan University	1989

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.

Board Member, Washington Council of Lawyers (Vice President 2010)	2008 – present
Member, National Association of Counsel for Children	2006 - present
Member, Family Law Section, District of Columbia Bar	2006 - present
Member, Women's Bar Association	2010 - present
Member, Bar Association of the District of Columbia	2011 - present
Member, Superior Court Family Court Trial Lawyers' Association	2010 - 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.

None. I have never been a member of an organization that 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.

District of Columbia Bar, 1997

United States Court of Appeals for the District of Columbia Circuit, 2002

United States District Court for the District of Columbia, 2003

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

Book Note, The Rooster's Egg: On the Persistence of Prejudice, by Patricia J. Williams (48 Stanford Law Review 1996)

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.

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

I did not practice alone.

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

Legal Director, Children's Law Center, Washington, D.C. , 616 H Street NW, Washington, D.C. 20001

October 2004 - present
Management and supervision of 50 attorneys engaged in all aspects of litigation involving children and families in the District of Columbia

Staff Attorney, Special Litigation Division & Office of the General Counsel, Public Defender Service for the District of Columbia, Washington, D.C., 633 Indiana Avenue NW, Washington, D.C. 20004
April 2004 - October 2004
Conduct civil litigation re: mandatory DNA testing, create development of policies and procedures

Associate, Zuckerman Spaeder LLP, 1800 M Street, NW, Washington, D.C. 20036
2002 - 2004
White-collar criminal defense litigation, general civil litigation

Staff Attorney, General Felony Section, Public Defender Service for the District of Columbia, Washington, D.C., 633 Indiana Avenue NW, Washington, D.C. 20004
1999 - 2002
Represented indigent clients charged with felonies and misdemeanors in District of Columbia Superior Court

Prettyman Fellow, Criminal Justice Clinic, Georgetown University Law Center, 111 F Street NW, Washington, D.C. 20001
1997 - 1999
Represented indigent clients in Superior Court, supervised practice of students enrolled in Criminal

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Justice Clinic

Law Clerk, National Center for Youth Law, 405 14th Street, Oakland, CA 94612
September - June 1996
Assisted in representation of low-income youth and families in civil actions
Law Clerk, Federal Public Defender, 450 Golden Gate Avenue, San Francisco, CA 94102
Summer 1996
Advised and represented clients for petty offense appearances, prepared pretrial motions

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

Following graduation from Stanford Law School in 1997 I received an E. Barrett Prettyman Fellowship at the Georgetown University Law Center's Criminal Justice Clinic, where I represented low-income residents of the District of Columbia charged with crime in the Superior Court of the District of Columbia. I was a Prettyman Fellow from August 1997 to September 1999. After the completion of my Fellowship I joined the Public Defender Service for the District of Columbia. There I was a staff attorney in the General Felony Section, where I represented indigent clients charged with both misdemeanors and felonies in Superior Court of the District of Columbia.

In 2002, I began work at the law firm of Zuckerman Spaeder, L.L.P. There, I participated in white-collar criminal defense litigation, general civil litigation and provided direct representation to clients charged with crime in Superior Court.

I returned to PDS in 2004 as a member of both the Special Litigation Division and the PDS General Counsel's Office. As a member of the Special Litigation Division, I worked on complex litigation on behalf of indigent clients. In my work for the General Counsel, I assisted in identifying and resolving conflicts of interest and other ethical matters, work I have carried over in my job as the Legal Director of Children's Law Center, a position I have held for the past six years.

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

For the first five years of my practice I practiced criminal law exclusively. As a Prettyman Fellow, I represented indigent individuals in misdemeanor and low-level felony cases; in the second year of the Fellowship I supervised third-year law students practicing under the student practice rule in misdemeanor cases. At the Public Defender Service I started by representing adult clients in the Misdemeanor Branch, and moved to general felonies.

At Zuckerman Spaeder I continued to represent clients in the Superior Court's Criminal Division, primarily in misdemeanor drug offenses.

My work at Children's Law Center ("CLC") is focused on the legal needs of low-income children and families in the District of Columbia. We have four major projects: through our largest, the Guardian ad litem Project, CLC lawyers represent children in the abuse and neglect section of the

Family Court. Under contract with Superior Court, our lawyers represent at least 500 children a year who have been physically, sexually, or emotionally abused or neglected. I am responsible for ensuring that the representation these children receive is of the highest quality. CLC's Health Access Project is a collaboration with Children's National Medical Center, through which CLC attorneys accept referrals from pediatricians for cases involving children's access to health care, education, and housing. Foster parents, grandparents, and other caregivers find representation through CLC's Family Permanency Project, which is also our largest pro bono project. I am responsible for managing the lawyers who train, mentor, and represent adult caretakers seeking to create stable homes for children in the abuse and neglect system. The cumulative experience our lawyers gain through work in child welfare is integrated in our policy work, through which we work to ensure that the policies, regulations, laws and funding affecting children all optimize their chances for safety, permanence and well-being. I am responsible for ensuring that the work done by our attorneys is of the highest quality, and I do this through extensive training and supervision, and by directly participating in more complex 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.

Prior to coming to Children's Law Center, I appeared at least once weekly in court in criminal cases on behalf of the defense. I practiced criminal law from 1997 to 2004.

Since 2004 I have acted as Children's Law Center's Legal Director, and have therefore appeared in court infrequently. I have handled a small number of cases as sole counsel in the Family Court of D.C. Superior Court, most recently in a custody case on behalf of a mother seeking custody of her son. More frequently I appear in court as the supervising attorney in cases that present especially complex legal issues.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);
None

(b) State courts of record (excluding D.C. courts);
None

(c) D.C. courts (Superior Court and D.C. Court of Appeals only);
100% of my court appearances have been in D.C. Superior Court.

(d) other courts and administrative bodies.
None

(3) What percentage of your litigation has been:

(a) civil; approximately 2%

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(b) criminal. approximately 98%

(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.

During my tenure at the Public Defender Service I carried a caseload of between twenty five and thirty cases as sole counsel. While complete records of my tenure at PDS are unavailable to me, I estimate that between 1997 and 2002, I acted as sole counsel for approximately eight jury trials and twelve non-jury trials. While I was at Zuckerman Spaeder I tried one case as associate counsel to verdict before a jury in D.C. Superior Court.

(4) What percentage of these trials was to

(a) a jury;

Approximately 5% of my cases were tried before juries.

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

Approximately 80% of my cases were tried before the court, and the remainder were resolved on motion or through guilty pleas.

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.

1. United States v. Ronald Hayward
Superior Court of the District of Columbia
Criminal No. F- 4299-98
Judge Melvin R. Wright

This case was tried over the course of several days before Judge Wright. I served as co-counsel with James Forman while we were both employed by the Public Defender Service. Mr. Hayward was charged with assault on a police officer while armed, misdemeanor theft, and felony threats. In addition to the testimony of the police witness, the government presented evidence from the woman against whom Mr. Hayward was alleged to have made threats. I delivered the opening statement and conducted a number of the cross examinations. At the conclusion of the trial the jury acquitted Mr. Hayward of felony threats and a mistrial was declared on the charge of assault on a police

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officer.

This case presented a number of challenging evidentiary issues which were vigorously argued by both sides. As a litigant I was able to appreciate the speed with which Judges must rule on evidentiary matters and in this case, decide motions to reconsider those very rulings. One contentious issue is illustrative: in its case in chief, the government proffered evidence regarding the misdemeanor theft charge in front of the jury, even though by statute that charge would be decided by the Court. Our Motion asked the Court to permit us to cross-examine the witness in front of the jury, because to allow the government to present affirmative evidence of the theft before the jury as motive for the threat denied our client his Sixth Amendment right to defend against both accusations. Equally contentious proved to be our argument that it was error for the Court to preclude cross-examination of a police witness regarding the government's failure to preserve property which had initially been preserved as evidence.

The United States was represented by Assistant United States Attorney, Patricia Heffernan, Esq. Office of the United States Attorney for the District of Columbia, 555 4th Street N.W., Washington, D.C. 20036. James Forman is now Associate Professor of Law at Georgetown University Law Center, 600 New Jersey Ave. N.W., Washington, D.C., 20001.

2. United States v. Luis Calvo
Superior Court of the District of Columbia
Criminal No. F-2223-02
Judge Robert I. Richter

Mr. Calvo, a medical technician at Washington Hospital Center, was charged with felony sexual assault for allegedly having acted improperly during an examination of a female patient. During a three day trial before Judge Robert Richter, William Taylor of Zuckerman Spaeder and I argued that the accuser was motivated by her desire for personal gain in a concurrent civil matter, and that the medical evidence did not support her claims. The stakes are always high in a criminal case; in this case a conviction would have meant the end of our client's career. A plea bargain was not an option. Pretrial, I wrote, argued and prevailed in a motion to prevent the introduction of so-called "other crimes" (*Drew v. United States*, 331 F.2d 85 (D.C. Cir. 1964) evidence against our client. In short, the government was not permitted to introduce evidence of any other crime because of the risk that such introduction would prove Mr. Calvo's disposition to commit the charged offense. In addition, I was responsible for cross examining several medical witnesses and for the introduction of character evidence in our client's favor. This last effort was especially challenging. A successful character witness proffers sufficient evidence to merit the jury instruction that, "the jury may consider that evidence of good character may alone create reasonable doubt as to guilt;" while remaining careful not to open the door to the other crimes evidence that could have been used to negate that evidence. As in the case discussed above, this case underscores the difficult decisions trial courts must make regarding evidence the jury will be permitted to consider. "Other crimes" evidence is particularly challenging in this regard, as it may well be highly relevant, but our courts have determined it is too prejudicial to comport with other ideals of our justice system. This case was a striking example of the dual role played by the Court as arbiter of the rules and of public justice. The jury acquitted Mr. Calvo.

The United States was represented by Assistant United States Attorney Elisa Poteat, Office of the United States Attorney for the District of Columbia, 555 4th Street NW, Washington D.C. William W. Taylor of Zuckerman Spaeder, L.L.P. 1800 M St., N.W., Washington, D.C. 20036 served as

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first chair in this case.

3. United States v. Thomas Kincade, 379 F.3d 813 (9th Cir. 2004)
Appeal from the United States District Court for the Central District of California
Brief of *Amicus Curiae* Public Defender Service for the District of Columbia for the En Banc Court

This case raised key question concerning the constitutionality of the "DNA Analysis Backlog Elimination Act of 2000" (DNA Act) and its provisions compelling thousands of prisoners, probationers and parolees to submit samples of biological material for analysis and inclusion in a nationwide DNA database operated by the FBI. Submission of samples was made mandatory for all eligible offenders, and criminal penalties imposed upon any person who failed to cooperate. The purpose of the DNA Act was to link individuals who have submitted samples with evidence collected from crime scenes nationwide. In our brief, we argued that while identifying and convicting perpetrators of crime would serve a public good, danger inherent in the collection and dissemination of exceedingly personal information, as well as chronic imperfections in forensic DNA practice, significantly undermined the nature of the governmental interests represented by DNA databases.

My co-authors on this brief were Timothy P. O'Toole, Esq., now employed by Miller & Chevalier, 655 15th Street N.W., Suite 900, Washington, D.C., 20005; Todd A. Cox, Esq., now employed by the Ford Foundation, 320 East 43rd Street, New York, N.Y., 10017; and Alison R. Flaum, Esq., Assistant Clinical Professor of Law, Northwestern University School of Law, 375 East Chicago Avenue, Chicago, IL, 60611.

4. In the Matter of Tanya G (a pseudonym).
Superior Court of the District of Columbia Family Division (Abuse and Neglect)
Case No. N-157-XX
Judge S. Pamela Gray

Tanya was adjudicated neglected when she was ten years old. I entered the case when she was fourteen, by which time she was suffering from a range of significant mental and physical health issues, had experienced more than one psychiatric hospitalization and eventually a year-long stay at a residential treatment facility. Tanya's grandmother had become her caretaker following allegations of physical abuse by her mother. I represented her grandmother in seeking to become Tanya's legal guardian. The case was closed in 2007, with Tanya placed with her grandmother as her planned permanent living arrangement.

When I entered the case, Tanya was significantly, depressed, withdrawn, and while doing well academically, quite socially isolated. She responded to questions, if at all, with solemn, one-word responses and made little eye contact. During the reminder of the case I came to appreciate the nearly intractable problems faced by families living in poverty who confront the additional challenges of mental illness (Tanya) and cognitive impairments (her mother). In a city with a stretched budget, finding therapeutic supports such as after-school programs or the residential placements where Tanya eventually lived, and then the transitional housing those residents require upon release leaves the Family Court judicial officer with a frustrating range of options. Having a creative, tenacious bench is obviously critical.

The government was represented for the majority of the case by Assistant Attorney General Susanne M. Fenzel, Office of the Attorney General, 441 4th Street N.W., Suite 1145S, Washington,

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D.C. 20001. For a portion of the duration of this case I also supervised a Children's Law Center staff attorney, Carla D. Watson, Esq. Ms. Watson is now employed by the District of Columbia Public Schools Office of the General Counsel, 1200 First Street, N.E., 10th fl., Washington, D.C. 20002.

5. Howard N. Moore v. Lyllian R. Porter
Superior Court of the District of Columbia Family Division (Domestic Relations)
Case No. DR-47-03
Judge Robert E. Morin

I began representing Ms. Porter as her lead counsel when she was arraigned before Magistrate Judge William Nooter on a charge of parental kidnapping (*District of Columbia v. Lyllian Porter*, 2004 CDC 002837). Having separated from Mr. Moore amid allegations of abuse, Ms. Porter was accused of unlawfully taking their son from the District of Columbia. When she and her son, aged 4, returned to the jurisdiction, I became her attorney. The case was resolved via guilty plea before Judge Erik Christian and Ms. Porter entered into a deferred sentencing program. Upon successful completion of her probation, Judge Christian permitted her to withdraw her guilty plea and the case was disposed via *nolle prosequi* as to the parental kidnapping change.

Despite this positive outcome for my client in the criminal case, the matter of custody of her young child remained, and so I continued to represent her in Family Court before Judge Morin. The case presenting the challenging problem of using the court system to engineer the best environment possible within which a young child can thrive, and benefit from the love and counsel of both his parents, even where they are no longer living together, or in this case, on amicable terms. This case presented the further challenge of Mr. Moore being pro se for most of the duration of the case, rendering his pleadings and cross-examination sometimes difficult to parse and therefore responds productively for my client. As the only lawyer in the case, with Mr. Moore's consent, I drafted most of the proposed agreements regarding the custody arrangement for their son. Because the parties were so often at odds with one another, these agreements were extremely detailed, encompassing the child's clothing, food, toileting schedule, as well as less exotic matters such as drop-off and pick up times at day care, religious education, and secular education when the time came for kindergarten. I developed invaluable negotiating skills with the parents, the child himself and his siblings, as well as the numerous experts engaged to evaluate him throughout the several years' duration of this case.

Howard N. Moore was represented for a portion of this case by Eva Britt, Esq., The Britt Firm, 1717 K Street, S.W., Suite 613-100, Washington, D.C. 20005.

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).

My legal career has been focused first on representing adults in criminal matters and then the interests of children and families in Family Court of the District of Columbia. Since the majority of criminal matters do not proceed to trial, and family law cases can remain in the court system for years without trial, I have had extensive experience with legal activity that did not involve litigation but were nonetheless extremely significant to the parties.

Representing a person charged with crime, however minor or serious, requires investigation, client counseling, negotiating, and even trial preparation for matters ultimately resolved through a plea. I have written and argued a significant number of motions in cases that did not ultimately proceed to trial. Involvement in family law calls upon all of those skills and additionally, mastery of the complex ways in which children and families navigate the many challenges presented by substandard living conditions, physical and emotional difficulties, and substance abuse. While the majority of matters did not proceed to trial, most of them lasted for at least six months to a year, and abuse and neglect cases for much longer.

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.

None

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.

- 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.

2011 no contributions over $30.00

2010	Democratic Senatorial Campaign Committee ($10.00 per month, contributions on 1/19; 2/19; 3/19; 4/19; 5/19; 6/20; 7/19; 8/19; 10/20; 11/20; 12/18); $25 10/19/10)	$145.00
2009	no contributions over $15.00	
2008	Democratic Senatorial Campaign Committee ($20.00 9/8; $25.00 10/8; $25.00 11/1)	$70.00
2007	no contributions over $25.00	

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.

   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.

   I am not aware of any potential conflicts. If a potential conflict does arise, I would resolve it pursuant to the District of Columbia Code of Judicial Conduct.

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

   Yes

III. FINANCIAL DATA - REDACTED

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, admitted December 1, 1997

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.

REDACTED	Washington, DC	1998 - 2007
REDACTED	Washington, DC	2007 - present

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.

Attached

AFFIDAVIT

Jennifer Ann Di Toro 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.

SUBSCRIBED and SWORN TO before me this 27th day of April 2011.

Notary Public

District of Columbia SS
Subscribed and Sworn to before me
this 27th day of April, 2011

Xiao Hong Mowry, Notary Public, D.C.
My commission expires February 28, 2016

Opening Statement of Donna M. Murphy
Nominee, Associate Judge, Superior Court of the District of Columbia
June 15, 2011

Mr. Chairman and members of the Committee, I want to thank you for the opportunity to appear before you today, and for your consideration of my qualifications for a position as an Associate Judge of the D.C. Superior Court. I would like to thank the Judicial Nomination Commission, chaired by the Honorable Emmet Sullivan, for recommending me to the White House, and President Barack Obama for my nomination. I would also like to thank the Committee staff for their professionalism in this process.

I am pleased that many of my family members, friends, and colleagues are here with me today. While I cannot acknowledge them all by name, I would like to introduce my family: my husband, Keenan Keller; my daughters, Claire and Lillian Keller; my parents who traveled here from Pennsylvania, Jack and Isabelle Murphy; and my father- and mother-in-law who traveled here from Ohio, Albert and Inell Keller. I am grateful to all of my family, friends, colleagues and mentors for the support and encouragement they have provided in my chosen career of public service and particularly in my application for this position on the D.C. Superior Court.

I was born and raised in Norristown, Pennsylvania; however, I have chosen Washington, D.C., as my home. I first visited the District of Columbia on a family vacation when I was approximately 12 years old, and I decided at that time that I would move to this city and make it my home. I followed through on my decision and moved to the District to attend college at American University. I did leave for a few years to attend Yale Law School and to begin my legal career by serving as a law clerk to the Honorable Myron Thompson of the U.S. District Court for the Middle District of Alabama. After my clerkship, I moved back to Washington to work for the United States Department of Justice, Civil Rights Division, and I have lived here since that time.

Throughout my career I have been fortunate to hold positions where my job every day is to do justice. This began with my clerkship, where Judge Thompson taught me a tremendous amount about the law while underscoring the importance of treating everyone who walks into the court with respect and dignity. Judge Myron Thompson is a smart, fair and respected jurist. He is one of my role models and has been an inspiration to me in seeking a position on the D.C. Superior Court.

As an attorney and manager in the Civil Rights Division for the last 20 years, I have had the opportunity to protect and defend the civil rights of many people whose rights otherwise might never have been vindicated. I have challenged myself by working in a variety of complex substantive areas, including federal voting rights enforcement; civil enforcement of federal laws prohibiting systemic law enforcement misconduct; and enforcement of federal laws prohibiting discrimination in credit, housing and public accommodations. I have worked in these areas as a deputy chief and special counsel, supervising numerous investigations and cases involving potential pattern or practice civil rights violations. I have trained dozens of new Department of Justice lawyers to enforce the law in a thorough and professional manner. I have been honored by the opportunity to make a difference in the lives of thousands of people throughout this great country by doing justice. I also have been fortunate to have tremendously talented and dedicated colleagues.

If I am confirmed for the position of Associate Judge on the D.C. Superior Court, I look forward to the opportunity to focus my legal skills and energy on serving people in the District of Columbia, and bringing to the bench my extensive litigation, negotiation and management experience. I am truly honored and humbled to be considered for this position, and I would welcome the opportunity to devote myself to providing justice in a fair and respectful manner for the people of the District of Columbia. Thank you again for your time and your consideration of my nomination.

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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).

   Donna Mary Murphy.

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

   United States.

3. Current office address and telephone number.

   United States Department of Justice
   Civil Rights Division
   Housing and Civil Enforcement Section
   1800 G Street, NW, Room 7107
   Washington DC 20006
   202-514-9512

4. Date and place of birth.

   I was born on April 28, 1964 in Norristown, Pennsylvania, USA.

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 to Keenan R. Keller.
   He is Senior Democratic Counsel to the House Judiciary Committee, U.S. House of Representatives, B351C Rayburn House Office Building, Washington, DC 20515

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

   REDACTED

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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.

Yale Law School
Attended September 1986 – May 1989
J.D. received May 1989

American University
Attended September 1982 – May 1986
B.S. in Political Science and Interdisciplinary Studies received May 1986

Plymouth-Whitemarsh High School
Attended September 1979-June 1982
Diploma received Jun 1982

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.

Since I began my legal career described in response 16, below, I have not held non-legal jobs. Between my graduation from college and the legal career described below, I held the following jobs (in reverse chronological order):

Legal Intern (June 1989 to August 1989)
Southern Poverty Law Center
Montgomery, Alabama

Summer Associate (July 1988 to August 1988)
Blanc Gilburne Williams & Johnston
Los Angeles, CA

Summer Associate (June 1988 to July 1988)
Morrison & Foerster
San Francisco, CA

Summer Associate (May 1987 to August 1987)
Montgomery McCracken Walker & Rhoads
Philadelphia, PA

During the summer of 1986, after graduating from college but before starting law school, I worked as a temporary secretary. I do not recall the name of the temp company for which I worked that summer.

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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 have received the following honors and awards:

John Doar Award for Exceptional Accomplishments, Excellence and Dedication in Enforcement of Civil Rights Laws, Civil Rights Division, October 2007
Certificate of Recognition for Outstanding Parental Involvement with the DC Public Schools and the DC-PTA, Greater Washington Urban League, October 2007
"Breaking the Glass Ceiling" Award, National Center for Women & Policing, April 2003
Walter W. Barnett Memorial Award for Excellence in Advocacy, Civil Rights Division, October 1995
United States Department of Justice Special Commendation or Achievement Awards, Civil Rights Division, December 2009, October 2008, October 2006, October 2005, October 2004, October 2003, October 2000, October 1998, October 1997, November 1994, November 1993, November 1992
United States Department of Justice Quality Step Increases, Civil Rights Division, October 2002, October 2001, October 1999, October 1996
Summa cum laude graduate of American University
American University Award for Undergraduate Scholarship
Phi Kappa Phi Graduate Fellowship (1986-1987)
Mortar Board Graduate Fellowship (1986-1987)

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.

I have held the following positions:

Officer, Friends of Bancroft (2003 - present)
Non-profit charitable foundation to support local elementary school
Board Member, Neighbors' Consejo (1997 – 2001)
Non-profit social services organization serving homeless persons in the Mount Pleasant, Columbia Heights and Adams Morgan

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.

I belong or have belonged to the following bar associations:

District of Columbia Bar Association, member (1993-present)
Bar Association of the District of Columbia, member (2008-present)

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Women's Bar Association, member (2008-present)
American Bar Association, former member (1993 – 2007 (approx.))
Section on Public & Local Government Law,
former member (1993 – 2006 (approx.))
American Judicature Society, former member (1991 – 2005 (approx.))

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.

I belong or have belonged to the following organizations, none of which to my knowledge discriminated on the basis of race, sex or religion:

Friends of Bancroft Elementary School, Director
Bancroft Elementary School PTA, Board member
Hardy Middle School PTA, member
Girl Scout Troop 6530, volunteer and cookie sale manager
Stoddert Soccer, recreational team manager and travel team social coordinator
Neighbors' Consejo, former member Board of Directors
National Organization for Women, DC Chapter, former member
National Museum of Women in the Arts, former member

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.

District of Columbia Bar, admitted July 9, 1993
Pennsylvania Bar, admitted June 19, 1991
My status in Pennsylvania is inactive due to the fact that my practice is exclusively federal and not based in Pennsylvania.
Bar of the Supreme Court of the United States, admitted April 19, 1995

I also have been admitted to practice as a federal attorney for the limited purpose of representing the United States in specific cases in numerous federal district courts around the country.

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

Combating the Financial Crisis Through Collaborative Enforcement: Understanding the Department's Lending Discrimination Enforcement, in September 2010 edition of the United States Attorneys' Bulletin.

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The Congressional Steel Caucus, in the Rostrum, 1984.

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.

During the last five years, I have not delivered any formal speeches. As part of my official duties in the Housing and Civil Enforcement Section, I have regularly made presentations other than formal speeches regarding the Section's fair housing and fair lending enforcement work at conferences and similar meetings.

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 served as a law clerk to the Honorable Myron H. Thompson on the United States District Court for the Middle District of Alabama in Montgomery, Alabama, from September 1989 to August 1990.

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

During my legal career, I have not practiced alone.

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

From October 1990 to the present, I have been employed by the United States Department of Justice, Civil Rights Division. During my career with the Civil Rights Division I have held the following positions (in reverse chronological order):

Principal Deputy Chief (September 2010 to present)
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
Washington, DC

Deputy Chief (April 2003 to September 2010)
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
Washington, DC

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Deputy Chief (January 2001 to April 2003)
Special Litigation Section
Civil Rights Division
U.S. Department of Justice
Washington, DC

Special Counsel for Police Matters (September 1999 to December 2000)
Special Litigation Section
Civil Rights Division
U.S. Department of Justice
Washington, DC

Deputy Chief (July 1995 to August 1999)
Voting Section
Civil Rights Division
U.S. Department of Justice
Washington, DC

Trial Attorney (July 1991 to July 1995)
Voting Section
Civil Rights Division
U.S. Department of Justice
Washington, DC

Law Clerk (October 1990 to July 1991)
Voting Section
Civil Rights Division
U.S. Department of Justice
Washington, DC

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

Throughout the twenty years since I graduated from Yale Law School, my legal practice has been devoted to public service. I served first for a year as a law clerk to the Honorable Myron H. Thompson in the U.S. District Court for the Middle District of Alabama. The cases on which I worked as a law clerk increased my pre-existing interest in and commitment to working on civil rights cases, and after the clerkship ended I began my career with the Civil Rights Division of the U.S. Department of Justice. For five years, I worked as a trial attorney, and my practice consisted primarily of reviewing, investigating and litigating alleged violations of the federal voting rights laws. During the 15 years since that time, I have served as a supervisor and manager in the Civil Rights Division, supervising the review, investigation, litigation and settlement of complex cases

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and matters that present potential civil violations in various substantive areas of civil rights laws. In critical situations, I also have personally handled key facets of complex investigations, litigation, or negotiations. In addition to my practice that is directly case-related, I also have substantial experience in administrative areas including budget, personnel, and information technology from my supervisory and managerial positions.

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

Throughout my career in the Department of Justice my client has been, pursuant to Justice Department policy, the Assistant Attorney General for Civil Rights. I have specialized in the following substantive areas: federal voting rights enforcement; civil enforcement of federal laws prohibiting pattern or practice law enforcement misconduct; and civil enforcement of federal laws prohibiting discrimination in credit, housing and public accommodations. As part of my work in the areas of housing and lending discrimination enforcement, I have conducted investigations and brought cases in which the federal government seeks and obtains monetary relief for individual victims of discrimination; however, in all these cases my client has been the Assistant Attorney General for Civil Rights.

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.

From 1990-1999, as a trial attorney and then deputy chief in the Voting Section of the Civil Rights Division, I appeared in federal district courts on a regular basis. During those nine years, I served as lead counsel for the United States in five complex voting rights cases that resulted in multi-day trials; four such cases that involved hearings on preliminary injunction or temporary restraining orders; and two such cases that involved extensive summary judgment proceedings. I also appeared regularly for status conferences and hearings in several federal district courts.

From 1999-2003, as a special counsel and then deputy chief in the Special Litigation Section of the Civil Rights Division, my appearances in court were less frequent than in the Voting Section and consisted primarily of hearings in the federal pattern or practice police misconduct case of *United States v. City of Los Angeles, et al.* (C.D. Cal.). From 2003 to the present, as a deputy chief in the Housing and Civil Enforcement Section of the Civil Rights Division, I have primarily supervised trial attorneys in pattern or practice fair housing, fair lending and public accommodations investigations and cases. In this position, I appear personally in court only occasionally; however, I have regularly supervised attorneys who appear in court, working closely with them on organizational, substantive, and strategic issues to ensure that they are fully prepared to represent the United States effectively in federal court. Virtually all of the

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Housing Section cases I have supervised are complex civil cases, and they very rarely go to trial. The only major exception to this was the jury trial I led in *United States v. District of Columbia*, discussed fully in response to question 17, below.

(2) What percentage of these appearances was in:

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

100%

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

None.

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

None.

(d) Other courts and administrative bodies.

None.

(3) What percentage of your litigation has been

(a) civil;

100%

(b) criminal.

None.

(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.

From 1990-1999, when I was a trial attorney and then deputy chief in the Voting Section of the Civil Rights Division, I tried five cases to judgment, a rate of trials that is extraordinarily high for the Civil Rights Division's complex civil rights cases. In four of the cases that I tried during those years, I served as lead or co-lead counsel on multi-lawyer trial teams; in the fifth, I was the on-site supervisor of two trial attorneys, but I did not participate directly in the presentation of the case. Since that time, all but one of the cases I have supervised in the areas of pattern or practice law enforcement misconduct, housing discrimination, lending discrimination and public accommodations

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discrimination have settled prior to trial. In 2006, I tried a Fair Housing Act case to verdict (a hung jury). I supervised the case as deputy chief in the discovery phase and, as described in response to question 17, below, effectively served as lead counsel for the multi-lawyer trial team during the summary judgment and trial phases of the case.

In addition to these cases, for six months during 2009, and for shorter periods at various times throughout the last eight years, I have served as acting chief of the Housing Section. In this capacity, I have served as the second-level supervisor for portions of trial preparation and a small number of federal jury trials.

(5) What percentage of these trials was to

(a) a jury;

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

The five voting rights trials described above were all bench trials; the one fair housing trial was a jury trial.

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.

(i) *United States v. District of Columbia*
Reported decision: 538 F. Supp.2d 211 (D.D.C. 2008)

This case involved claims that the District of Columbia discriminated on the basis of disability by delaying and denying zoning-related permits for a group home for children with disabilities to be operated in the District by Father Flanagan's Girls & Boys Town (Boys Town). Although the jury was split and did not reach a verdict, the litigation was ultimately resolved through a settlement that changed the way in which relevant District agencies identify and address requests for reasonable accommodations in the zoning process, as required by the Fair Housing Act, 42 U.S.C. 3604(f)(3)(b).

I represented the United States as plaintiff. I began supervising this case as the deputy chief after the complaint was filed and discovery was well underway. Due to factors including the complexity of the case and illness of the assigned senior attorney, I effectively served as lead counsel for the summary judgment, trial and settlement phases

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of the case. (For summary judgment and trial, our case was consolidated with *Father Flanagan's Boys Home v. District of Columbia).* In this capacity, I wrote or revised substantial portions of the briefing on motions for summary judgment and judgment on non-jury issues, presented argument on one of the summary judgment motion (which the Judge carried to trial), led the trial team and handled key expert testimony at trial, and presented the closing argument for the United States. I also personally negotiated critical aspects of the final settlement in the case, which required implementation by the District of new procedures for reasonable accommodation and related requests that were developed during the settlement negotiations; the development and implementation of specified additional procedures; substantial training; and monitoring and reporting. (The United States' settlement did not include monetary relief for Boys Town as that issue was resolved in a separate agreement between that party and the District of Columbia.)

(A) Dates of representation: 2006-present

(B) U.S. District Court for the District of Columbia
Judge: U.S.D.J. James Robertson

(C) Primary counsel for other parties:
District of Columbia – Leah Brownlee Taylor
(then with the D.C. Office of the Attorney General)
Current address:
U.S Department of Justice
Civil Division
1425 New York Ave., NW, Suite 8003
Washington, DC 20530

Girls & Boys Town -- Paul Mirabile
Middleberg, Riddle & Gianna
201 Charles Street, 31st Floor
New Orleans, LA 70170-3100

Deborah Baum
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037-1122

(ii) *United States v. City of Los Angeles, Board of Police Commissioners and Los Angeles Police Department*
Reported decision: 2001 WL 314976 (C.D. Cal., Feb. 2001)

This case involved claims of a pattern or practice of unconstitutional actions by Los Angeles Police Department (LAPD) in the late 1990s. The alleged pattern of misconduct included use of excessive force, violations of the constitutional rights of suspects arrested by the police, and racial discrimination. The consent order that resulted

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from this case mandated extensive and comprehensive reform of the manner in which the nation's second largest police force interacted with members of the public and in the police department systems designed to prevent, detect and address civil rights violations by the police. The litigation in the case focused on the entry of the consent order and several implementation issues; the case did not go to trial.

I represented the United States as plaintiff. Together with the Section Chief, I led a four lawyer team in conducting extensive and in-depth pre-suit negotiations that ultimately resulted in a multi-faceted institutional reform consent order. When the proposed consent order was filed with the court, along with the United States' complaint, several other parties moved to intervene in the case in order to challenge the consent order and/or seek a role in enforcing compliance. I led the team that handled the litigation resulting in the entry and subsequent implementation of this consent order. The consent order provided for extensive reform of LAPD practices including monitoring of use of force, searches and seizures, and traffic stops, as well as a computerized system for systematically tracking officer conduct.

(A) Dates of representation: 1999-2003

(B) United States District Court for the Central District of California
Judge: U.S.D.J. Gary Feess

(C) Primary counsel for other parties:
City of Los Angeles – Timothy McOsker
Mayer Brown
350 South Grand Avenue, 25th Floor
Los Angeles, CA 90071-1503

(Alternative address for Mr. McOsker)
Development & Provost Initiatives
University of Notre Dame
7855 Ivanhoe Avenue, Suite 224
La Jolla, CA 92037

Mark F. Burton
Senior Assistant City Attorney
200 City Hall East
200 North Main Street
Los Angeles, CA 90012

Patricia Glaser
Glaser Weil Fink Jacobs Howard & Shapiro, LLP
10250 Constellation Boulevard
Los Angeles, CA 90067

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ACLU – Mark Rosenbaum
ACLU Foundation of Southern California
1616 Beverly Boulevard
Los Angeles, CA 90026

Police Protective League – Gregory G. Petersen, Esq
The Petersen Law Firm
3100 Airway Drive, Suite 109
Costa Mesa, CA 92626

(iii) *Theriot v. Jefferson Parish, Louisiana* (E.D. La.)
Reported decision: 966 F.Supp. 1435 (E.D. La. 1997)

This case involved claims by the private plaintiff that a Jefferson Parish[1] council voting district plan, including one African-American majority district, constituted a racial gerrymander violating the 14th Amendment of the Constitution. After a bench trial, the court determined that the plan was constitutional. The judgment in this case constituted one of the first litigated decisions, after the Supreme Court established the actionable claim of racial gerrymandering in *Shaw v. Reno*, 509 U.S. 630 (1993), in which a court upheld a districting plan that included a majority-minority voting district against constitutional challenge.

I, along with two attorneys whom I supervised, represented the United States as the defendant intervenor in the litigation and trial of this case. The United States intervened as a defendant in this case after Jefferson Parish was sued. I supervised closely the expedited discovery process, summary judgment, trial preparation and trial proceedings in this case. I attended the trial and worked closely with the trial attorneys to prepare, plan strategy and react to developments in the trial, although I did not personally participate in the court proceedings. I also consulted with the Civil Rights Division's Appellate Section and the Office of the Solicitor General during the appellate phase of the case

(A) Dates of representation: 1995-1999

(B) United States District Court for the Eastern District of Louisiana,
Judge: U.S.D.J. Stanwood R. Duval

(C) Primary counsel for other parties:
Jefferson Parish – Harry Rosenberg
M. Nan Alessandra
Phelps, Dunbar, LLP
365 Canal Street, Suite 2000

[1] In Louisiana, a "parish" is the equivalent of a county.

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New Orleans, LA 70130

Roy J. Rodney, Jr.
Rodney & Etter, LLC
620 North Carrollton Avenue
New Orleans, LA 70119

Theriot plaintiffs -- Haywood H. Hillyer III (deceased)

Dominic N. Varrecchio
300 Lafayette Street
New Orleans, LA 70130-3289

(iii) *Johnson v. Miller* (S.D. Ga., three judge court) (principal counsel)
Reported decisions: 864 F. Supp. 1354 (S.D. Ga. 1994, three judge court); 922 F. Supp. 1556 (S.D. Ga. 1995, three judge court)

This case involved claims by private plaintiffs that the State of Georgia's congressional redistricting plan, which included three African-American majority districts, constituted a racial gerrymander violating the 14th Amendment of the Constitution. The initial trial in this case was the year after the Supreme Court established the actionable claim of racial gerrymandering in its *Shaw v. Reno* decision, and thus required the parties to identify and develop relevant evidence in the absence of precedent and address numerous novel legal and evidentiary issues. After a bench trial before a three-judge court, we were unsuccessful in defending the constitutionality of the districts at issue; however, we were able to establish the important principle that *Shaw v. Reno* should not be applied to invalidate all majority-minority voting districts. In addition, the multiple decisions in *Johnson v. Miller* began to establish evidentiary and legal standards for these cases that we then applied to successfully defend majority-minority voting districts in subsequent cases such as *Theriot v. Jefferson Parish.*

I led teams of two to four other attorneys in representing the United States as a defendant intervenor in the litigation of this case, which included multiple evidentiary hearings, as well as the related case involving a constitutional challenge to the majority-African American districts in Georgia's state house and senate districting plans. I drafted the initial motion of the United States to intervene as a defendant after the State of Georgia was sued; organized and conducted the expedited discovery process; led the initial bench trial; and led the evidentiary and legal presentations in remedial proceedings before the three-judge district court after that court's liability decision was affirmed by the Supreme Court. In addition to my extensive work at the trial level, I also consulted with the Civil Rights Division's Appellate Section and the Office of the Solicitor General on the several appeals in this case and drafted a motion for injunction pending appeal after we lost the initial trial. In 1995, I received the Civil Rights Division's Walter Barnett Award for Excellence in Litigation for my work on this case, one of the few

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times an attorney has earned this award for litigating a case that did not result in a victory for the Division.

(A) Dates of representation: 1994-1999

(B) United States District Court for the Southern District of Georgia
Judges: U.S. Circuit Judge J.L. Edmondson, U.S.D.J. B. Avant Edenfield, and U.S.D.J. Dudley Bowen (managing judge)

(C) Primary counsel for other parties:

State of Georgia – David Walbert
Parks Chesin & Walbert
75 Fourteenth Street, 26th Floor
Atlanta, GA 30309

Plaintiff Johnson – Lee Parks
Parks Chesin & Walbert
75 Fourteenth Street, 26th Floor
Atlanta, GA 30309

ACLU Voting Rights Project – Laughlin McDonald
American Civil Liberties Union Foundation
230 Peachtree Street, NW, Suite 1440
Atlanta, GA 30303-1227

(v) *State of Louisiana v. United States*, Civil Action No. 91-0122 (D.D.C.)
Reported decisions: None

This case was a challenge by the State of Louisiana to objections interposed by the Assistant Attorney General for Civil Rights under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, to Louisiana state laws designed to expand Louisiana's system for electing state court judges. These changes were subject to the "preclearance" requirements of Section 5, and therefore, the objections precluded implementation of the legislation. At the same time there was a pending affirmative challenge under Section 2 of the Voting Rights Act being litigated by private plaintiffs in the U.S. District Court for the Middle District of Louisiana. After substantial litigation and discovery regarding the racially discriminatory results of the electoral systems at issue, including numerous depositions and expert discovery, the State of Louisiana passed legislation revising its method of electing state court judges in certain parishes to address the Section 5 objections. Those changes received the required preclearance and effectively resolved the case shortly before the scheduled trial. In the judicial election cycle that followed, African-American judges were elected to the state court bench for the first time in more than a dozen areas of the state with substantial African-American populations.

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I represented the United States as the defendant in this case. I was assigned to the case as a junior attorney but immediately assumed substantial responsibility for the extensive paper discovery and dozens of depositions taken by the United States, including several depositions of state court judges. During the course of the litigation, the two senior attorneys who worked with me in the discovery phase of the case each left the Voting Section, and I became the lead attorney on the case. In that capacity, I conducted the remaining discovery, including extensive expert discovery, coordinated litigation and pre-trial strategy with private defendant-interveners, drafted an extensive pre-trial brief for the scheduled bench trial before the three-judge court, and prepared for trial along with the assigned junior attorney. Less than a month before the scheduled trial, the State legislature passed legislation remediating the remaining discrimination features of its state court judicial election system and, as a result, we were able to settle the case before trial.

(A) Dates of representation: 1991-1993

(B) United States District Court for the District of Columbia
Judges: U.S. Circuit Judge A. Raymond Randolph; U.S.D.J. Thomas F. Hogan and U.S.D.J. Joyce Hens Green (managing judge)

(C) Primary counsel for other parties:

State of Louisiana – Michael H. Rubin, Esq.
McGlinchey Stafford
301 Main Street, One American Place
Baton Rouge, LA 70825

Christina Peck
Roedel Parsons Koch Blache Balhoff & McCollister
8440 Jefferson Highway, Suite 301
Baton Rouge, LA 70809

Clark defendant-intervenors – Robert B. McDuff
767 N Congress Street
Jackson, MS 39202

Ernest Johnson
3133 Government Street
Baton Rouge, LA 70806

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

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waived).

I have litigated very significant cases during my career, including the five described above. These cases, however, do not provide a full representation of the broad range of significant contributions I have made to civil rights enforcement, particularly for the past eight years in the Housing and Civil Enforcement Section. During this time, the majority of the significant cases on which I have worked have been lending discrimination cases, and through my efforts and those of the lawyers I supervise, we have achieved favorable settlements prior to litigation in all but two of these cases (one settled after substantial discovery which I supervised and the other remains in litigation).

Among the most significant lending discrimination cases on which I have worked are the two recent cases of *United States v. AIG FSB and Wilmington Finance, Inc.* (D. Del., complaint and consent order filed March 2010), and *United States v. First United Security Bank* (S.D. Ala., complaint and consent order filed September 2009). The *AIG FSB* complaint alleges that the defendant lenders established a system of making mortgage loans through brokers who were granted uncontrolled and unmonitored discretion to set fees, and that this facially neutral practice resulted in discrimination against African-American borrowers who were systematically charged higher fees than white borrowers. This case is the first in which the Department of Justice has held lenders responsible for racial disparities in fees charged by brokers directly to borrowers. I led a negotiation team that obtained a settlement providing more than $6 million in monetary relief for aggrieved borrowers and consumer financial education. The *First United Security Bank* case involves claims that the bank had discriminated against African-American borrowers in the Black-belt area of Alabama both by failing to make its lending services available to predominantly African-American neighborhoods on an equal basis as it provided lending services in white areas (redlining) and by charging higher interest rates to those African-American borrowers to whom it did make loans than to similarly-situated white borrowers. I worked closely with the senior attorney assigned to this matter to develop the case and to negotiate a favorable settlement. The consent order in this case provides for extensive reforms in the bank's lending practices in African-American areas, including opening a new branch office, funding $500,000 in subsidies for loans in the formerly redlined areas, and providing monetary relief for the African-American borrowers who were charged discriminatory rates.

In addition to these and other significant lending discrimination cases, in my current position I also led the team that developed and settled without litigation *United States v. Cracker Barrel*, Civil Action No. 4:04-CV-109-HLM (N.D. Ga.), complaint and consent order filed May 2004), a case alleging a pattern or practice of discrimination against African-American customers by the nationwide restaurant chain, in violation of Title II of the Civil Rights Act of 1964. The consent order in that case required the company to implement comprehensive reforms in its business practices throughout the country in order to prevent patterns of public accommodation discrimination and to establish systems for investigating complaints, and otherwise to identify and address, individual instances of customer discrimination when they occur. In each of these

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cases, I played a hands-on role in leading teams of attorneys and other staff members in conducting extensive and in-depth investigations, developing the factual and legal basis for the lawsuit, and personally participated in pre-suit negotiations that produced advantageous resolutions. I also lead the teams that handle the oversight of consent order compliance in these cases, including substantial litigation in the *Cracker Barrel* case as we successfully opposed the company's effort to obtain early release from that consent order.

Similarly, in my previous position as special counsel and deputy chief in the Special Litigation Section, I was the primary supervisor for the Civil Rights Division's docket of cases and matters involving alleged systemic unconstitutional actions by law enforcement. In that position, I supervised a series of complex, in-depth investigations, several of which resulted in negotiated settlements, and I also oversaw compliance with a number of these institutional reform consent orders. In addition to the Los Angeles Police Department case described above, these included an investigation of the Buffalo Police Department that was resolved through a memorandum of agreement and implementation of the consent order in *United States v. Pittsburgh Police Department*, Civil Action No. 97-0354 (W.D. Pa.).

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 previously.

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).

I have never served as a candidate for elective, judicial, or any other public office.

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.

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- 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 the last five years, I (or my husband from our joint checking account) have made four political contributions of $50 or more: a $ 250 contribution to the Gray for Mayor campaign (July 31, 2010); a $70 contribution to the Committee to Elect Yvette Alexander (March 3, 2007); and two $100 contributions to the Lichtman for U.S. Senate campaign (March 25 and August 23, 2006).

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 an 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 have not been a party or material witness in any such legal proceedings in my personal capacity, and, to the best of my knowledge and recollection, none of the non-profit organizations for which I have been an officer or director has been a party or material witness to such proceedings during the time I served with those organizations.

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.

    I have never been so disciplined or cited. I also, to the best of my knowledge, have not been the subject of any such complaint.

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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.

   I am not aware of any conflicts at this time. During the last 10 years, however, I have represented the United States Department of Justice in dozens of investigations and lawsuits involving alleged pattern or practice violations of federal civil rights laws. While the vast majority of these matters were in areas of the country other than the District of Columbia and thus are not likely to produce a conflict, it is possible that issues relating to one or more of these cases or investigations could be presented in a case before the D.C. Superior Court. A potential conflict could arise if I were the Associate Judge assigned to such a case.

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.

   See response to question 3, above. Outside of my federal government capacity, I am not aware of any potential conflicts.

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.

   I have not engaged in any such activities outside of my federal government capacity.

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.

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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.

To the extent that any potential conflicts, or the appearance of such conflicts, arose during my service as a D.C. Superior Court judge, should I be confirmed, I would resolve it pursuant to the District of Columbia Code of Judicial Conduct.

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

Yes.

III. FINANCIAL DATA - REDACTED

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 in the District of Columbia in 1993.

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

These questions are not applicable.

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. I have lived at REDACTED Washington, DC since I purchased that residence with my husband Keenan Keller in 1995.

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.

These are included as Attachment C.

AFFIDAVIT

I, Donna Murphy 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.

SUBSCRIBED and SWORN TO before me this 28th day of April 2011.

Notary Public

LINDA WONGKONGKATAP
Notary Public, D.C.
My Commission Expires: 01/01/2015

Opening Statement of Yvonne M. Williams
Nominee, Associate Judge, District of Columbia Superior Court
June 15, 2011

Mr. Chairman and members of the committee, I am grateful for and honored by the opportunity to appear before you today as a nominee to be an Associate Judge of the District of Columbia Superior Court. I would like to thank the District of Columbia Judicial Nomination Commission for recommending me to the White House, and President Barack Obama for nominating me. I would also like to thank the Committee for considering my nomination so quickly, and treating me with the utmost courtesy and respect during this process.

I would like to introduce my family members who are here with me today: my son, Kendall Weaver; my mother, Julia Burgess, who flew from Massachusetts to be with me today; my stepfather, Roy Singham, who took the train from New York City this morning to support me today; and my brother, Kevin Williams. I want to thank my family not only for being here, but for a lifetime of support, encouragement, and guidance that has truly shaped the person I have become today. I would also like to thank my dad, John Williams, and my sisters, Tanya Williams, Jackie Kramer, and Dandridge Floyd, who all reside in Detroit, Michigan and could not be here today. Finally, many of my fabulous friends, colleagues, and mentors are here with me today, and I would like to thank them for inspiring, challenging, and supporting me throughout my career.

As a teenager growing up Chicago, Illinois, to an undergraduate at the University of California at Berkeley, and then a law student at Northeastern University School of Law, I have always been committed to doing what I can to help improve and enrich the lives of others. At Northeastern, I was trained to become a lawyer imbued with a commitment to principled advocacy and to the notion that, because injustice can exist anywhere, it is our responsibility as lawyers to use the law to advance and improve the lives of those whom we serve. I have strived to do that for every client I have been fortunate enough to represent. As a D.C. Superior Court judge, I will continue that commitment to making a positive difference in people's lives.

In my fourteen years as a practicing attorney, I have fiercely advocated on behalf of my clients to protect and advance their rights and legal positions. During the first half of my career, I worked exclusively on behalf of low-income African American workers before federal courts throughout the country and indigent criminal defendants at both the trial and appellate level in D.C. Superior Court. In the second half of my career to date, I have represented individuals and multi-national corporations in civil and criminal matters, defending their interests against various legal claims before federal courts and administrative agencies. In each of these matters, I was dedicated to improving the circumstances of my clients and to working with them to seek and obtain just solutions to their problems.

I am moved and humbled to be considered for a judgeship on D.C. Superior Court -- the court where I grew up as an attorney, where I learned how to be a lawyer, and where, everyday, I was reminded of the strength, perseverance, and compassion of the citizens of the District of Columbia. I am so proud to serve this great city in this capacity and I thank you again for considering my nomination.

68009.041

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).

   Yvonne Michelle Williams
   Yvonne Michelle Weaver

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

   U.S. citizen

3. Current office address and telephone number.

   Miller & Chevalier Chartered
   655 15th Street, NW, Suite 900
   Washington, DC 20005
   (202) 626-5863

4. Date and place of birth.

   June 13, 1972
   Detroit, Michigan

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 (Divorced)

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

   REDACTED

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.

   Northeastern University School of Law: Attended 1994 – 1997. Received J.D., May 1997

University of California at Berkeley: Attended 1990 – 1994. Received B.A. in Sociology, May 1994.

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.

Illinois Federal Defender Program
55 East Monroe Street, Suite 2800
Chicago, IL 60603
Legal Intern - November 1996 - March 1997

Gessler Hughes & Socol
70 West Madison Street
Chicago, IL 60602
Summer Associate - June 1996 - August 1996

NAACP Legal Defense & Educational Fund, Inc.
1444 I Street, NW
Washington, DC 20005
Legal Intern - November 1995 - March 1996

The Honorable William T. Hart
United District Court for the Northern District of Illinois
219 South Dearborn Street
Chicago, IL 60604
Summer Intern - June 1995 - August 1995

Cronig's Market
Upper State Road
West Tisbury, MA 02575
Cashier - June 1994 - August 1994

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.

Awarded the Denise Carty-Bennia full-tuition merit scholarship, Northeastern University School of Law, 1994 - 1997.

Named "Outstanding Law Student," Federal Defender Program, Chicago, IL ,1997.

Member, Alpha Kappa Delta Sociology Honor Society, University of California at Berkeley, 1992 - 1994.

Member, U.C. Berkeley Honor Society, University of California at Berkeley, 1992 - 1994.

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.

President of Board of Directors: DC Law Students in Court, June 2010 to present (Board Member from September 2008 to present)

Board Member: Children's Neighborhood Trust Initiative, 1998 - 2001

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.

Board Member, Women's Bar Association of the District of Columbia, 2010 - present

Co-Chair, Mentoring Committee, Women's Bar Association of the District of Columbia, 2008 - 2010

Member, Judicial Evaluation Committee, District of Columbia Bar Association, 2008 - present

Member, Nominating Committee, Labor and Employment Law Section, District of Columbia Bar Association, 2010 - 2011

Member, Greater Washington Area Chapter, National Bar Association, 2005 - 2010

Member, American Bar Association, 2005 - 2010

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.

Member, Links, Incorporated, Capital City Chapter, 2009 - present

Member, Delta Sigma Theta Sorority, Incorporated, 1993 - present

Both organizations are for women only.

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.

Illinois, 1997.

District of Columbia, 1999.

United States District Court for the District of Columbia, 2005

United States Court of Appeals for the District of Columbia, 2009.

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

Co-Author, "Loss Causation: A Durable Concept," American Bar Association, Business Torts Journal, August 2006.

Co-Author, "Internal EEO Investigation Essentials," HR Advisor, November/December 2010.

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.

The following is a list of speeches/presentations I have given during the last five years. None of the speeches/presentations given were written.

Speaker, "Internal Employment Investigation Essentials Series, Part I," Labor and Employment Section, District of Columbia Bar, August 25, 2010.

Speaker, "Litigation Trends and Risk Mitigation: Pharmaceutical, Medical Device, and Health Plan and Provider Disputes," Health Care Law Summit, National Bar Association, Washington, D.C., May 6, 2010.

Speaker, "A Primer on the ERISA Basics for Practitioners and Litigators," Health Care Law Summit, National Bar Association, Washington, D.C., May 7, 2009.

Panel Facilitator, "Anatomy of a Trial: Closing Arguments," American Bar Association, Washington, D.C., May 5, 2009.

Panel Facilitator, "Anatomy of a Trial: Cross Examination," American Bar Association, Washington, D.C., March 3, 2009.

Program Facilitator, "Hit the Ground Running: Practical Skills You Need to Succeed," Women's Bar Association of the District of Columbia, Washington, D.C., February 7, 2009.

Panel Facilitator, "Anatomy of a Trial: Opening Statements and Direct Examinations," American Bar Association, Washington, D.C., January 6, 2009.

Speaker, "Real World Training for Future Success," Women's Bar Association of the District of Columbia, Washington, D.C., November 8, 2008.

Panel Co-chair and Facilitator, "Initiative on the Retention and Advancement of Women of Color in Law Firms: Pathways to Success for All," Women's Bar Association of the District of Columbia, Washington, D.C., March 19, 2008.

Panelist, "A Passage to India: The Dos and Don'ts of Conducting Business with the Indian Government," American Bar Association, Washington, D.C., October 23, 2007.

Panel Co-chair and Facilitator, "E-Discovery, Records Retention, and White Collar Crime: Tools for a Successful White Collar Practice," American Bar Association, White Collar Crime Subcommittee, Young Lawyers Section, Washington, D.C., May 10, 2007.

Panel Moderator, "E-Discovery: The Benefits and Burdens, How to Advise Clients," American Bar Association, Business Torts Litigation Committee, Section of Litigation, Washington, D.C., May 18, 2005.

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.

After graduating from law school, I was a National Association for Public Interest Law (now Equal Justice Works) fellow in the Washington, D.C. office of the NAACP Legal

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Defense and Educational Fund ("LDF"). I worked at LDF from September 1997 to October 1999. LDF is located at 1444 I Street, NW, Washington, D.C. 20005.

In October 1999, I began working as a staff attorney at the Public Defender Service for the District of Columbia ("PDS"). From October 1999 to January 2003, I was assigned to the trial division where I represented indigent defendants at every level of the D.C. Superior Court Criminal Division as well as, for juvenile matters, its Family Division. In January 2003, I began a rotation in PDS's Appellate Division where I represented convicted indigent defendants before the D.C. Court of Appeals. I remained in the Appellate Division until January 2005 (for approximately 9 months of my appellate rotation, I was either in trial or on maternity leave), when I left PDS. PDS is located at 633 Indiana Avenue, NW, Washington, D.C. 20004.

After leaving PDS, I joined Miller & Chevalier Chartered ("M&C") in January 2005 as a senior associate. I worked at M&C until April 2007. M&C is located at 655 15th Street, NW, Suite 900, Washington, D.C. 20005.

From April 2007 to September 2008, I worked as a senior associate in the Washington, D.C. office of Wilson Sonsini Goodrich & Rosati ("WSGR"), a Palo Alto, California based law firm. WSGR's Washington, D.C. office is located at 1700 K Street, NW, Fifth floor, Washington, D.C. 20006.

In September 2008, I returned to M&C as Counsel and work there presently. In 2009, I was a Faculty member for the Washington Council of Lawyers Litigation Skills Training Program and, in 2010, was a Faculty member for the Harvard University Trial Advocacy Workshop. Washington Council of Lawyers is located at 555 12th Street, NW, Washington, D.C. 20004. Harvard University is located at 1563 Massachusetts Avenue, Cambridge, MA 02138.

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

See response to C.

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

Since graduating from law school, my legal practice has consisted of litigating a combination of both civil and criminal cases on behalf of low-income and indigent individuals as well as multi-national corporations.

I began my career at LDF on a fellowship during which I investigated whether employment discrimination was occurring as a result of the passage of the Personal Responsibility and Work Opportunity Act (""PRWORA"). PRWORA ended the Aid to

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Families with Children program, and placed a lifetime limit on the length of time women with children could receive government assistance. It also required aid recipients to find work. LDF was concerned that because of a poor job market and given the historic treatment of low-skilled workers, African American former aid recipients might face employment discrimination as they entered the job market. I investigated certain industries and geographic locations and worked with former aid recipients to determine whether such discrimination was occurring. I also communicated with members of the legislative and executive branches of federal government on the effect of the PWORA on African American communities.

While at LDF, I also litigated several employment discrimination cases in United States District Courts in Alabama and Arkansas and served as associate counsel in one trial. My work at LDF culminated in filing a class action suit in the United States District Court for the District of South Carolina on behalf of low-income African American workers alleging that their employer engaged in pattern and practice of discrimination in hiring, promotions, and compensation. I was primary counsel on the case, wrote the complaint, handled the discovery matters and preliminary motions, and deposed and defended the depositions of relevant witnesses. The case was resolved after I left LDF.

During my five-year tenure at PDS, I was assigned first to the Trial Division and later to the Appellate Division. In the Trial Division, I represented indigent defendants charged with crimes at every level of the Superior Court's Criminal Division as well as juvenile matters in the Family Division. I carried a caseload of approximately twenty to thirty-five cases.

During my first year at PDS, I represented juveniles in the Family Division. My primary purpose was to defend juvenile clients against criminal charges. During this period, I had eleven juvenile bench trials. In addition, because a major purpose of juvenile court is rehabilitation of the children involved, I was also attended school hearings on behalf of clients, helped clients enroll in educational, GED, and drug treatment programs, and assisted them and their families with obtaining housing and psychiatric care.

My next rotation at PDS was in general felonies, where I represented individuals charged with primarily with felony gun and drug charges. After one year, I was handling serious felonies (including armed robbery, assault with intent to kill, and other felonies on the Accelerated Felony Track calendar). I handled these criminal matters from presentation/arraignment through sentencing. I also served as associate counsel in four Felony I cases (such as murder, child sex abuse, and other more serious felonies).

My final rotation at PDS was in the Appellate Division. There, I reviewed trial transcripts, wrote appellate briefs, and argued before the D.C. Court of Appeals. During this time, I maintained my post-trial adult and juvenile cases and an appellate caseload of about four to six cases.

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In 2005, I went to work at Miller & Chevalier Chartered ("M&C") as a Senior Associate. My practice there included both criminal and civil investigations and litigation. I represented corporations in challenges to insurance benefit denials, allegations of breach of fiduciary duty under the Employee Retirement Security Act ("ERISA"), and claims of employment discrimination. I also represented corporations and individual clients in a variety of matters involving allegations of defamation, government contracting fraud, insider trading, conspiracy, and other fraud-related allegations. I also managed and conducted corporate internal investigations related to allegations of employment discrimination and potential violations of the Foreign Corrupt Practices Act ("FCPA") and the International Traffic in Arms Regulations ("ITAR"). In conducting these investigations, I managed the document review process, interviewed dozens of witnesses, drafted final reports, and supervised several junior lawyers.

In May 2007, I moved to Wilson Sonsini Goodrich and Rosati, with a partner for whom I was working at the time. I conducted and managed corporate criminal internal investigations involving potential violations of the FCPA, the ITAR, and the Export Administration Regulations ("EAR") exclusively. Depending on the matter, I supervised groups of three to five lawyers.

In September 2008, I returned to M&C as Counsel. Since my return, my practice has been almost exclusively civil. I have defended corporations against allegations of employment discrimination under the Americans with Disabilities Act ("ADA") and Title VII of the Civil Rights Act. I have also assisted in the firm's representation of insurance companies in challenges to insurance benefit denials and a class of individuals in significant pension benefit disputes with the Pension Benefit Guarantee Corporation. On the criminal side, I have represented one individual in a state criminal Medicaid fraud investigation.

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.

(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.

(3) What percentage of your litigation has been:

(a) civil;

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(b) 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.

(5) What percentage of these trials was to

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

Over the past five years, I have been in private practice and have appeared in court very infrequently. At M&C, approximately 70% of my work has been on complex civil cases and 30% of my work was devoted to criminal and investigative work. Approximately two thirds of my civil cases have been before United States District Courts and the remaining one third have been before federal administrative agencies. I also worked on an appeal before the United States Court of Appeals for the District of Columbia and argued the matter before that court. I have not tried any cases and have only been to court sporadically (no more that five times a year) for status hearings or motions arguments. I have settled or successfully mediated one case as chief counsel and two cases as associate counsel. Most of my civil cases are still pending.

At WSGR, approximately 90% of my work involved corporate criminal internal investigations. The remaining 10% involved a pro bono civil mater, on which I had worked at M&C, which had been pending before the United States District Court for the District of Columbia. That matter was settled when I returned to M&C, and is discussed in response to question 17. While employed at WSGR, I did not go to court and worked on no appellate matters.

Prior to the last five years, I was a staff attorney at PDS in either the Trial or Appellate Divisions. I appeared in D.C. Superior Court on average four days a week and carried a case load of between twenty to thirty-five cases. By my estimate, between 2000 and 2005, I served as sole counsel in eleven juvenile bench trials, six criminal bench trials, seven felony jury trials, and as associate counsel in four other felony jury trials. I also resolved at least two matters by dispositive motions hearing. I estimate that I resolved over fifty criminal matters via guilty plea. In the Appellate Division, I appeared in court less frequently than when I was in the Trial division -- approximately five times a month as I had to handle outstanding juvenile and post-trial matters. During this period, I argued three cases before the D.C. Court of Appeals.

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.

1. ***In re M.J.***
   Superior Court for the District of Columbia
   Case No. J-1727-00

   In *In re M.J*, the 15-year old respondent was charged with two counts of armed robbery for driving the "getaway car" while his co-defendant robbed a gas station attendant and other patrons at gun point. M.J., who already had been committed to the Department of Youth Services, had an IQ of approximately 60. His mother was a drug-addict whom he barely knew and his father, a wheelchair bound parapalegic, was M.J.'s primary caretaker, who died during the pendency of the matter. The case presented interesting legal issues, including: whether the juvenile record of the adult co-defendant, who testified against M.J. at the juvenile trial, could be used during cross-examination; whether M.J.'s video-taped statement should have been suppressed; and whether the motion for judgment of acquittal should have been granted, given the significant inconsistencies in the government's evidence. The case's most pressing issues, however, involved obtaining the proper services for M.J. through the Family Division's Juvenile Court. M.J was convicted of two counts of armed robbery by Judge Thomas Motley and was committed to the Department of Youth Services to age 21.

   I worked tirelessly with M.J.'s probation officer to ensure that M.J. received grief counseling, access to the appropriate educational services, and housing (since his father was deceased, M.J. had no where to live). M.J. was ultimately sent to a residential facility in another state where he could get the services he needed in a safe environment. This required investigating the appropriate facilities, finding an excellent psychiatrist to complete his psychiatric study, and working with the government to support the placement.

   I was lead counsel for M.J. in this matter representing him at every level. I wrote and argued every motion filed before the court. At trial, I cross examined all the government's witnesses. These included the two complainants, who could not identify M.J.; several police officers, one of whom obtained M.J.'s statement; and the adult co-defendant, who was the principal perpetrator of the offense.

   The prosecutor in the case was Eric Galun, then an attorney at the Office of Corporation Counsel (now the Office of the Attorney General). Mr. Galun works

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currently as an Assistant United States Attorney for the United States Attorney's Office, 555 4th Street, NW, Washington, D.C. 20530.

2. ***United States v. Clifford Millhouse***
Superior Court of the District of Columbia
M-7582-00

The *Millhouse* case involved important issues related to the Sixth Amendment confrontation clause. Mr. Millhouse was charged with two counts of simple assault. While this seemed initially like a commonplace misdemeanor offense, it became a case of constitutional proportions because, at trial, the government did not present one of the complainants, Mr. Millhouse's girlfriend, to testify. The government instead relied upon the Rules of Evidence excited utterance hearsay exception to admit the statements the girlfriend had made to the police in her 911 call as their only evidence. As a result, the accuser was never subject to cross-examination. This matter not only raised Sixth Amendment concerns but also the proper use of the excited utterance hearsay exception, including whether the witness was actually unavailable the time of trial and the reliability of an alleged excited utterance that contradicted trial testimony. Mr. Millhouse was convicted of two counts of simple assault before Judge Hiram Puig-Lugo.

I was sole counsel in this case. I tried it before Judge Puig-Lugo and wrote and argued all pre-trial suppression motions. The right to confront issue was not raised until trial when the government announced they would be proceeding with the 911 call only. After Judge Puig-Lugo convicted Mr. Millhouse, I wrote a lengthy post-trial motion for judgment of acquittal challenging the conviction on constitutional grounds and arguing that it was error to admit the 911 call as an excited utterance. I argued the matter in a separate hearing before Judge Puig-Lugo. Although Mr. Millhouse's conviction was sustained, the United States Supreme Court later addressed these very issues in *Crawford v. Washington*, 541 U.S. 36 (2004).

The prosecutor in the case was Elizabeth Carroll, who was then an Assistant United States Attorney at the Unites States Attorneys Office. She is now Magistrate Judge Elizabeth Carroll Wingo presiding in D.C. Superior Court, 500 Indiana Avenue, NW, Washington, D.C. 20001.

3. ***United States v. Michael Morrow***
Superior Court of the District of Columbia
F-346-02

In this matter, Mr. Morrow was charged with several offenses including armed robbery and possession of a firearm during a crime of violence. The government alleged that Mr. Morrow and the co-defendant chased the complainant, a known drug addict, into an apartment and assaulted and robbed him. The case presented

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interesting factual issues about the government's investigation of the matter and the reliability of the testimony of the complaining witness. At trial, the individual who lived in the apartment at the time of the offense, a defense witness, testified that neither Mr. Morrow, the co-defendant, nor the complainant had ever been in the apartment. He further testified that a red spot identified, but not tested, by the police, as blood was actually ketchup. After deliberating for approximately six minutes, Mr. Morrow and the co-defendant were acquitted of all counts.

I was sole counsel in the case. I tried the case before Judge Frederick Weisberg. I also wrote and argued all pre-trial and discovery motions, which included a lengthy *Brady* motion seeking that the government release exculpatory evidence that, ultimately, was revealed at trial, and conducted an extensive factual investigation to find the person who actually resided in the apartment at the time of the offense.

The prosecutor in the case was Timothy Lucas, who is an Assistant United States Attorney at the United States Attorneys Office, Second District Community Prosecution, 555 4th Street, NW, Washington, D.C. 20530.

4. ***Bean v. Asian American Business Table and Rawlein Soberano***
United States District Court of the District of Columbia
Case No.: 04-cv-01713

This case addressed complicated issues involving the reach of the First Amendment of the Constitution, claims of defamation against a public official, and invasion of privacy. M&C's pro bono client, Asian American Business Roundtable ("AABR"), was sued because its president wrote an allegedly defamatory column in his weekly newsletter about Bridgette Bean, who, at the time, was a high-level official at the Small Business Administration. The primary legal issues in this case were whether AABR's distribution of its newsletter to 3,000 people constituted a publication under the First Amendment, whether the plaintiff had to establish that AABR acted with malice in criticizing the plaintiff in his newsletter, and whether the plaintiff could be considered a public official. The matter was litigated before Judge Paul Friedman and was settled after nearly five years of litigation. AABR was not required to pay any damages to the plaintiff.

I served as primary counsel and supervised a more junior associate. The case was supervised by Mark Rochon, a Member at M&C. As the lead litigator, I handled and managed the discovery matters, which included the organization and review of thousands of pages of documents, drafted several preliminary, discovery, and dispositive motions, argued motions and other issues before the court, took all but one of several depositions (the junior associate took a deposition), and negotiated the terms of the settlement agreement.

The plaintiff was represented by John Karl, Law Offices of John Karl, Jr., 1090

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Vermont Ave., NW, Washington, D.C. 20005. The junior associate with whom I worked was Leah Frazier, who works currently at the Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, D.C. 20580. Mark Rochon is a Member at Miller & Chevalier, 655 15th Street, NW, Suite 900, Washington, D.C. 20005.

5. ***Rouse v. Berry***
United States District Court for the District of Columbia
Case No. 06-cv-2088

This case is currently in litigation. Plaintiff sued the Office of Personnel Management ("OPM"), alleging he was denied insurance coverage under the Federal Long Term Care Insurance Program in violation of the Americans with Disabilities Act ("ADA") because he is a paraplegic and uses a wheelchair. I serve as counsel to Long Term Care Partners ("LTCP"), which intervened in the matter because it administers the program, and John Hancock, the company that insures the program. This case presents significant issues related to the requisite burden of proof a plaintiff must establish in a claim of discrimination under the ADA. It also involves the question of whether plaintiff must prove that OPM and, by extension, LTCP, intentionally discriminated against him in denying him long term care or whether the denial itself is *prima facie* evidence of discrimination such that OPM and LTCP must provide an actuarial justification for the denial.

While the issue appears resolved in federal court that the plaintiff must prove intentional discrimination, the Equal Employment Opportunity Commission's ("EEOC") guidance is opposite and requires actuarial proof from the defendant.
When this matter was pending before the EEOC, this issue -- as well as whether the EEOC has jurisdiction to hear these discrimination claims given the jurisdictional language in the Federal Long Term Care Security Act -- was extensively litigated. Because the EEOC advocates a legal position contrary to federal law and more favorable to plaintiffs, LTCP is defending other cases pending before the EEOC that raise these same issues.

I serve as primary counsel on this matter, which is pending before Judge Richard Roberts, and the other LTCP matters pending before the EEOC. These cases are supervised by Anthony F. Shelley, a Member and Vice Chair of M&C. As the lead litigator, I manage all case-related matters including coordinating the responses to and requests for discovery, drafting preliminary, discovery, and dispositive motions, preparing witnesses for depositions, taking and defending depositions, and working with case experts. I also supervise a junior associate who assists in litigating the matter.

The plaintiff is represented by James Bailey of Bailey & Ehrenberg, 1015 18th Street, NW, Suite 601, Washington, D.C. 20036. OPM is represented by Teresa Schreffler at the Department of Justice, Federal Programs Branch, 20 Massachusetts Avenue, NW,

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Room 7305, Washington, D.C. 20530. Anthony F. Shelley and Josephine Harriott, the junior associate with whom I work, are at M&C, 655 15th Street, NW, Suite 900, Washington, D.C. 20005.

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).

During my time at M&C and WSGR, I have represented large multi-national companies under investigation by either the Department of Justice, for alleged violations of the FCPA, or the Department of State, for alleged violations of the ITAR. I have conducted and managed five such investigations which involved alleged violations located in several countries. My responsibilities included managing the extensive document review, conducting numerous interviews of client employees, interfacing with the client and the federal government regarding investigation findings and outcomes, drafting lengthy investigation summaries and reports, and supervising several junior lawyers to assist in the investigation. These matters were either dismissed by the government, settled such that the client paid a significant penalty for any violation of the law but was not required to admit liability, or have not yet to be resolved.

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.

No

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.

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

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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.

Obama Victory Fund (DNC), $250.00, 11/3/2008
Obama Victory Fund (DNC), $500.00, 10/23/2008
Obama Victory Fund (Obama for America), $1000.00, 9/26/2008
Obama for America, $250.00, 9/4/2008
Obama for America, $250.00, 9/2/2008
Obama for America, $500.00, 7/31/2008
Obama for America, $500.00, 2/17/2008
Obama for America, $1000.00, 1/26/2008
Obama for America, $250.00, 01/04/2008
Obama for America, $500.00, 04/18/2007
Corey Booker Re-election campaign, $125.00, March 2009
Adrian Fenty Re-election campaign, $125.00, March 2009

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,

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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.

I am not aware of any potential conflicts. If a potential conflict does arise, I would resolve it pursuant to the District of Columbia Code of Judicial Conduct.

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

Yes

III. FINANCIAL DATA - REDACTED

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 the bar of the District of Columbia in 1999.

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?

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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. For the last five years, I have lived at REDACTED Washington, D.C.

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.

   Attached.

AFFIDAVIT

Yvonne M. Williams 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.

SUBSCRIBED and SWORN TO before me this 20th day of April 2011.

Rohnda P. Washington
Notary Public

ROHNDA P. WASHINGTON
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires April 14, 2012

Responses of Donna M. Murphy
Nominee to be Associate Judge of the Superior Court of the District of Columbia
to the Additional Questions for the Record of Senator Susan Collins

1. **In the *Johnson v. Miller* case, you led a team of trial attorneys. The judges who issued the decision in that case were particularly critical about the behavior of the Justice Department attorneys who reviewed the redistricting plan for the State of Georgia. The Court's opinion stated:**

> **This Court finds it distressing that Messrs. Borders and Armstrong lacked any significant memory of important elements of the 1991-92 preclearance saga. Both of them—especially Mr. Borders—intimately involved with the redistricting for months, just 'don't recall' basic details of either important meetings or the preclearance process. ... Frankly, based on the factual record and trial testimony, the Court finds Borders' and Armstrong's professed amnesia less than credible.**

a. **As a senior trial attorney on behalf of the United States in the *Miller* case, what role did you play in overseeing the activities of the attorneys criticized by the Court?**

Response: I was first assigned to this matter after the *Johnson v. Miller* case was filed in January 1994. I had no role in the earlier Section 5 administrative review and preclearance of the State of Georgia's congressional redistricting plan at issue in the Court's opinion quoted above. Thus, I had no role in overseeing Mr. Borders' or Mr. Armstrong's activities in the Section 5 administrative review and preclearance process.

b. **During your trial preparation, or during the trial itself, did you find the inability of these attorneys to recall basic details about important meetings or the clearance process "less than credible"?**

Response: During the trial preparation and trial of this case, the *Johnson* plaintiffs took the depositions of Mr. Borders and Mr. Armstrong and presented their testimony at trial. The Department of Justice attorneys responsible for the *Johnson v. Miller* litigation, including myself, did not control the plaintiffs' decision to present the testimony of the attorneys who participated in the Section 5 administrative review and preclearance process. Thus, any views of the *Johnson v. Miller* trial attorneys regarding the credibility of these attorney witnesses had no impact on whether their testimony was presented at trial.

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c. If so, why did you proceed to present them as witnesses in the trial?

Response: The United States did not present either Mr. Borders or Mr. Armstrong as a witness at trial. As described above in response to question 1b, their testimony was offered by the plaintiffs, and they were recorded in the transcript as plaintiffs' witnesses.

2. In the *Johnson v. Miller* case, the Court also highlighted the Justice Department's apparent favoritism towards the ACLU and its position on preclearance. Among other things, the Court's opinion noted that the facts of the case demonstrated "a direct link between the max-black plan formulated by the ACLU and the preclearance requirements imposed by DOJ." The Court added: "Succinctly put, the considerable influence of ACLU advocacy on the voting rights decisions of the United States Attorney General is an embarrassment."

a. In your opinion, do you believe the Justice Department attorneys involved in the preclearance process in this case acted appropriately with respect to their professional responsibilities and duties as advocates for the United States?

Response: As described above in response to question 1, I had no role in the Section 5 preclearance process for the State of Georgia's congressional redistricting plan at issue in the quoted *Johnson v. Miller* opinion. During the trial of the case, testimony and evidence regarding that process were presented to the District Court, which made the findings quoted above. The Court concluded that the attorneys involved in the preclearance process did not act appropriately, and I accept that conclusion.

b. Do you believe the ACLU exercised any undue influence on the Justice Department during the preclearance process in this case?

Response: Please see my response to question 2a, above.

3. During your time in the Special Litigation Section of the Civil Rights Division you worked on a number of cases investigating allegations of misconduct by police officers and police departments.

a. If confirmed as a Superior Court judge, police officers will often appear before you as witnesses. Do you believe your work in the Special Litigation Unit has biased you in anyway against law enforcement?

Response: No, I am not biased in any way against law enforcement. In the course of my work in the Special Litigation Section of the Civil Rights Division, I worked on the review of allegations of patterns of misconduct by numerous law enforcement agencies.

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The teams that I supervised reviewed these allegations fairly and without bias. I have great respect and appreciation for the difficult work performed by police officers on a daily basis.

b. Can you assure the Committee that, if confirmed, you would determine the credibility of police officers in the same way and by the same standards as you would evaluate the testimony of other witnesses?

Response: I can assure the Committee that, if confirmed, I would determine the credibility of police officers in the same way and by the same standards as I would evaluate the testimony of other witnesses.

4. Civil Rights Division veteran and former FEC Commissioner Hans von Spakovsky has written that your "hostility to law enforcement was legendary in the Division." He added: "If Murphy is confirmed as a judge, there will never be a better time to be a drug dealer in D.C. because Donna Murphy has never met a search that she would be unwilling to suppress."

a. How do you respond to these statements?

Response: These statements have no basis in fact and do not accurately state my views of law enforcement or the law.

b. Approximately how many times have you, during your tenure in the Civil Rights Division, concluded or supported other staff conclusions that the evidence did *not support* a case against a local or state police department?

Response: I worked in the Special Litigation Section for approximately three and one-half years, from September 1999 to April 2003. During that time, more than a dozen complaints alleging misconduct by law enforcement agencies that I reviewed were closed.

c. Can you provide examples of cases where you concluded that allegations of police misconduct were unwarranted?

Response: During my tenure with the Special Litigation Section, the Department generally did not make public the matters involving alleged law enforcement misconduct where the Section determined that there was no need for any enforcement action by the Department of Justice.

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d. If members of the law enforcement community were asked whether or not you would be impartial when hearing a case involving law enforcement, what do you think they would say?

Response: During my tenure in the Special Litigation Section, we conducted fair inquiries into alleged patterns of misconduct. In our investigations, we sought and considered information from police officials, rank and file officers, community members and others; thoroughly reviewed documents and data; and often retained experts in police practices as consultants or consulted with the FBI. The procedures we used in these investigations are described in questions and answers that were first posted on the Civil Rights Division website during my tenure and are still available at http://www.justice.gov/crt/about/spl/faq.php#everycomplaint. As a result, I believe that members of the law enforcement community with whom I had contact during my tenure in the Special Litigation Section would say that, if I am confirmed as an Associate Judge of the D.C. Superior Court, I would be fair and impartial when hearing a case involving law enforcement.

5. **In discussing judicial nominations in 2007, President Obama said: "[W]e need somebody who's got the heart to recognize – the empathy to recognize what it's like to be a young, teenaged mom; the empathy to understand what it's like to be poor or African-American or gay or disabled or old. And that's the criteria by which I'm going to be selecting my judges." Similarly, in 2005 when the Senate was considering Chief Justice Roberts' nomination, then-Senator Obama commented that, in a certain percentage of judicial decisions, "the critical ingredient is supplied by what is in the judge's heart."**

a. Do you agree with President Obama's statements? What role, if any, do you think "empathy" should play in a judge's consideration of cases or litigants?

Response: I do not know the full context of President Obama's statements, but I do not believe that a judge's personal beliefs should play a role in judicial deliberations or decisions. I do believe that it is appropriate and proper for a judge to treat all persons appearing before the court, including victims and witnesses, with respect and dignity, which is how I define empathy in the context of judicial proceedings.

b. How would you describe the proper role of a judge?

Response: The proper role of a judge is to decide each matter that comes before the court by applying the law based upon a fair and unbiased assessment of all relevant facts.

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c. Do you believe personal beliefs should be factored into a judge's deliberations and ultimate decision on a case?

Response: No, personal beliefs should not be factored into a judge's deliberations and ultimate decision on a case.

6. You have served in senior management positions in the Civil Rights Division for more than a decade. The Division has occasionally been the focus of public and nonpublic controversy. Can you assure the Committee:

a. That you have not allowed political considerations to affect in any way your performance of official duties?

Response: I can assure the Committee that I have not allowed political considerations to affect the performance of my official duties.

b. That you have responded appropriately, and in a timely manner, to any allegations of wrongdoing or mismanagement that have come to your attention?

Response: I can assure the Committee that I have responded appropriately, and in a timely manner, to allegations of wrongdoing or mismanagement that have come to my attention.

c. That you have treated subordinate employees who may have complained about mismanagement or potential wrongdoing in a manner that was fair, respectful, and consistent with applicable legal guidelines and procedures?

Response: I can assure the Committee that I have treated subordinate employees, including any who may have complained about mismanagement or potential wrongdoing, in a manner that was fair, respectful, and consistent with applicable legal guidelines and procedures.

7. In the 2008 case *United States v. Stacy Sturdevant, AIMCO Properties, L.P., et al*, before the U.S. District Court for the District of Kansas, Magistrate Judge Waxe granted the Defendant's Motion to Compel the Plaintiff's (the United States) interrogatory answers. Additionally, Judge Waxe imposed monetary sanctions against Plaintiff's counsel, finding the Defendant was entitled to "reasonable expenses, including attorney's fees, incurred in making the motion to compel."

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a. You are listed as an attorney of record on behalf of the United States. Do you recall this order?

Response: Yes, I recall learning about this order in the case of *United States v. Stacy Sturdevant, AIMCO Properties, L.P., et al.*

b. What was your involvement in the case? Did you oversee the trial attorneys in this case?

Response: I was the deputy chief responsible for the case of *United States v. Sturdevant* from July through November 2008. During that time period, I oversaw the trial attorneys in the case. In November 2008, another deputy chief was assigned to the case, and I no longer oversaw the work of the trial attorneys in the *Sturdevant* case.

From January through July 2009, I served as Acting Chief for the Section. During that time period, I supervised all of the deputy chiefs in the Section, including the deputy chief responsible for overseeing the litigation in *United States v. Sturdevant*, but I did not directly oversee the work of the trial attorneys in the case.

c. Did you review any of the court documents written by these trial attorneys prior to them being filed in the Court?

Response: During the time that I was the deputy chief responsible for the case of *United States v. Sturdevant* (July to November 2008), I reviewed the documents written by the trial attorneys before they were filed with the court. After another deputy chief was assigned to the case, I no longer reviewed the court documents written by the trial attorneys in the *Sturdevant* case prior to their being filed with the Court.

During the period that I was the Acting Chief for the Housing and Civil Enforcement Section (January through July 2009), I supervised all of the deputy chiefs in the Section, including the deputy chief responsible for overseeing the litigation in *United States v. Sturdevant*. The Section Chief of the Housing and Civil Enforcement Section generally does not review discovery responses or most other court documents prepared by the trial attorneys before they are filed or served, and during my tenure as Acting Chief, I followed that practice.

d. Do you recall reviewing the Defendant's interrogatories and the answers written by the trial attorneys?

Response: The interrogatory responses referenced in this question were provided to the defendant in April 2009. At that time I was the Acting Chief of the Section; however, as described in my response to question 7c, the Section Chief of the Housing and Civil Enforcement Section generally does not review discovery responses prepared by the trial

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attorneys before they are served. Pursuant to this standard practice, I did not review the interrogatory responses referenced in the question before they were provided to the defendants.

e. After the order came down from the Court, what, if any, action did you take against these attorneys?

Response: The Magistrate Judge's Order granting the defendant's motion to compel was issued on December 30, 2009, after I had ceased serving as Acting Chief for the Section. Therefore, I was not involved in determining the Section's response to the Order.

f. Were these monetary sanctions paid by the Housing and Civil Enforcement Section?

Response: As noted in my response to question 7e, above, I was no longer serving as Acting Chief and had no role in supervising the *United States v. Sturdevant* case at the time that the Magistrate Judge's Order was issued. The record of the case reflects that the United States appealed that Order to the District Court on January 13, 2010, and the case between the United States and the defendant that had filed the motion to compel was resolved by a consent order (entered on February 24, 2010), before the District Court issued a ruling on the sanctions appeal.

g. Do you condone the work of these attorneys that subjected the government to sanctions?

Response: As described in my response to question 7d, I did not review the interrogatory responses referenced in this question before they were provided to the defendants, and I have no direct knowledge that would inform an independent conclusion about the work of the attorneys on those interrogatory responses.

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United States District Court
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA, GEORGIA 30903

DUDLEY H. BOWEN, JR.
JUDGE

POST OFFICE BOX 2106

June 2, 2011

The Honorable Joseph I. Lieberman
Chairman
U.S. Senate Homeland Security
and Governmental Affairs Committee
340 Dirksen Senate Office Building
Washington, DC 20510

In RE: Donna Murphy

Dear Mr. Chairman,

I write this letter at the request of your committee staff member, Ms. Kenya Wiley. I have known Ms. Donna Murphy since the early 1990's. My principal exposure to Ms. Murphy occurred during her representation of the Department of Justice, Civil Rights Division, in a major case in which all of the Congressional Districts of Georgia were re-drawn. Johnson v. Miller, 864 F. Supp. 1354 (S.D. Ga. 1994). This case was tried to a three-judge district court and directly appealed to the Supreme Court of the United States. Miller v. Johnson, 515 U.S. 900 (1995). The redistricting principles explored in this case were novel, complex and resulted in a landmark decision.

Ms. Murphy's representation of her client was forthright, aggressive, well-prepared and ethical in every respect. She took her adverse rulings with grace and style, bearing her successes in the same fashion.

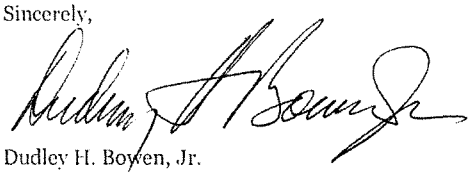
While Circuit Judge Edmonson was the presiding judge, I was the initiating judge. As such, I retained the responsibility of management of the case before and during trial. Ms. Murphy's opposing counsel in the Johnson case were among the finest lawyers in the State, including the Attorney General of Georgia. Against this array, Ms. Murphy conducted her business with confidence, tenacity and professionalism.

It is absolutely true that the majority opinion in the three-judge district court made direct, unequivocal, critical findings about the Government's then policy of "maximizing majority-black [voting] districts." The impropriety of the so called "Black Max" policy and its implementation was the crux of the litigation. However, this agenda of maximization was the product of the Assistant Attorney General. It was implemented by policy level Department of Justice personnel in the Pre-Clearance Section. It should be carefully noted that as a trial attorney Ms. Murphy was assigned the task of litigation well after the Department of Justice demanded Georgia's abject surrender to this policy. Ms. Murphy defended the case and lost because of an incorrect policy position in which the Department of Justice was, by that time, irredeemably entrenched.

The Johnson case was among the most memorable of those I have handled in over three decades on the district bench. In that context, Ms. Murphy is a lawyer I have remembered with admiration.

I hope this letter adequately responds to your inquiry. With kind regards, I am

Sincerely,



Dudley H. Bowen, Jr.

cc: Honorable Susan M. Collins,
Ranking Member

LOS ANGELES POLICE DEPARTMENT

CHARLIE BECK
Chief of Police

P. O. Box 30158
Los Angeles, Calif. 90030
Telephone: (213) 486-0140
TDD: (877) 275-5273
Ref #: 1.14

ANTONIO R. VILLARAIGOSA
Mayor

July 14, 2011

The Honorable Joseph I. Lieberman Chairman
U.S. Senate Homeland Security
and Governmental Affairs Committee
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Susan M. Collins
Ranking Member
U.S. Senate Homeland Security
and Governmental Affairs Committee
413 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Donna M. Murphy

Dear Senators Lieberman and Collins:

I write in strong support of the nomination of Donna M. Murphy to the Superior Court of Washington, D.C. I am a senior police executive in the Los Angeles Police Department (LAPD). I had a substantial number of dealings with Ms. Murphy in her capacity as Deputy Chief of the Special Litigation Section of the Civil Rights Division of the United States Department of Justice (DOJ) in connection with negotiation and implementation of a Consent Decree with the LAPD and the City of Los Angeles, relating to the conduct and operation of the police department. Ms. Murphy's and the DOJ objective was to improve the LAPD and she at all times acted honorably, ethically, and intelligently. She never exhibited prejudice or bias or rigidity of position. As a lawyer, I can ensure you that Ms. Murphy will have an exemplary judicial temperament, is highly intelligent, and will render equal justice to all, without bias or favor. Her decisions will be firmly based in the law and will be seen by all sides as fair and just.

I was President of the Los Angeles Board of Police Commissioners and a member of the team that conducted the negotiations with DOJ. These negotiations took six months during which Ms. Murphy conducted herself with professionalism and in the manner that all attorneys should when in a similar situation. After the negotiations concluded and the decree approved by the court, I returned to private practice. When William Bratton was appointed Chief of the Los Angeles Police Department (Department), he requested that I join the Department and assist in the

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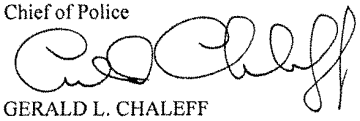
Department's compliance with the decree. In that capacity I had the opportunity to observe the conduct of Ms. Murphy and again found her to be professional, intelligent and fair. It has been suggested that because Ms. Murphy worked in the Special Litigation Section, she is somehow biased against the police. Throughout the Consent Decree negotiations and implementation, she manifested a clear understanding of the issues facing the LAPD and, where possible, she suggested resolutions that demonstrated her understanding of the job of the police and the pressures facing the officers performing their duties and never exhibited any indication of prejudice against police officers or the Department. She earned the respect and admiration of the LAPD personnel with whom she dealt. As the LAPD's executive in charge of implementation of the Consent Decree, I can assure that as difficult as it was, Ms. Murphy never did anything to cause anyone to feel anyway other than that she was fair and only trying to assist.

The Consent Decree was negotiated in perfect good faith by the Special Litigation Section and that the goals and intentions of the Consent Decree were in no way a reflection of anti-police bias. Indeed, the Decree augmented police professionalism, promoted officer safety, helped to restore public trust and confidence, and made the LAPD an even stronger law enforcement agency.

Please let me know if you have any questions about the foregoing. I am available at (213) 486-8730.

Very truly yours,

CHARLIE BECK
Chief of Police



GERALD L. CHALEFF
Special Assistant for Constitutional Policing

cc:
Kristine Lam
Counsel
Senate Committee on Homeland Security and Governmental Affairs
Senator Joseph I. Lieberman (ID-CT), Chairman
Kristine_Lam@hsgac.senate.gov

Jennifer Tarr
Counsel
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